

SEC8

THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION

In the Matter of:)
) File No. HO-13388-A
)
KIK INTERACTIVE)

WITNESS: Edward "Ted" Livingston

PAGES: 1 through 314

PLACE: U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549

DATE: Wednesday, November 7, 2018

The above-entitled matter came on for hearing,
pursuant to notice, at 9:48 a.m.

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APPEARANCES:

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JAMES MURTHA, ESQ.

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APPEARANCES(CONT.):

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Also Present:

Steven Jones, Videographer

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PROCEEDINGS

THE VIDEOGRAPHER: Good afternoon. This

begins -- sorry. Good morning. This begins Disc

Number 1. We are now on the video record.

The time on the monitor is 9:48 a.m.

MR. LEASURE: On the record on

November 7th, 2018, at the SEC's D.C. office.

Sir, can you please raise your right hand.

Do you swear to tell the truth, the whole

truth, and nothing but the truth?

THE WITNESS: I do.

Whereupon,

EDWARD "TED" LIVINGSTON

was called as a witness, and having been first sworn, was

examined and testified as follows:

EXAMINATION

BY MR. LEASURE:

Q You can put the hand down. Thank you, sir.

A Thank you.

Q Can you please state and spell your full name for the record?

A My legal name is Edward Livingston. Do you want me to spell it? I go by Ted, though.

Q Okay. It's all right if you call you Ted?

A I would prefer Ted. Nobody calls me

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1 Edward.

2 **Q Understood. I'm a Jeffrey. I understand**

3 **that.**

4 **Can you spell your last name just for the**

5 **record?**

6 A Yeah. L-i-v-i-n-g-s-t-o-n.

7 **Q Good morning. I am Jeff Leasure. And to**

8 **my left are Brent Mitchell, James Murtha, Steven**

9 **Schlegelmilch, and David Mendel. We are members of the**

10 **staff of the enforcement division of the United States**

11 **Securities and Exchange Commission and officers of the**

12 **Commission for purposes of this proceeding.**

13 **This is an investigation by the United**

14 **States Securities and Exchange Commission in the matter**

15 **of Kik Interactive, Inc., File Number HO13388, to**

16 **determine whether there have been violations of certain**

17 **provisions of the federal securities laws. However,**

18 **the facts developed in this investigation might**

19 **constitute violations of other federal or state, civil,**

20 **or criminal laws.**

21 **Prior to the opening of the record, you**

22 **were provided with a copy of the formal order of**

23 **investigation in this matter as supplemented. It will**

24 **be available for your examination during the course of**

25 **this proceeding.**

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1 **Have you had an opportunity to review the**

2 **formal order?**

3 A I have.

4 **Q Do you have any questions?**

5 A I do not.

6 **Q Prior to the opening of the record, you**

7 **were provided with a copy of the Commission's**

8 **Supplemental Information Form 1662. A copy of this**

9 **notice has previously been marked as Exhibit 1.**

10 **Have you had the opportunity to read**

11 **Exhibit 1?**

12 A I have.

13 **Q Do you have any questions concerning this**

14 **notice?**

15 A I do not.

16 **Q Are you represented by counsel today?**

17 A I am.

18 MR. LEASURE: Would counsel please identify

19 themselves?

20 MR. GIBBS: Patrick Gibbs from Cooley, LLP,

21 on behalf of Kik and Mr. Livingston.

22 MR. LYNCH: Kenneth Lynch, Kirkland &

23 Ellis, LLP, representing the witness today.

24 MR. CADIGAN: Luke Cadigan of Cooley, LLP,

25 representing the witness and Kik.

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1 MR. DEJARNETTE: Brett DeJarnette from

2 Cooley, representing the witness and Kik.

3 MR. MITCHELL: Can you just run the list?

4 MR. DEJARNETTE: Sure. So Cooley and

5 Kirkland jointly represent Kik, Tanner Philp, Phil

6 Yang, Peter Heinke, Eileen Lyon, and the Kin

7 Foundation. Cooley represents Eran Ben-Ari, Fred

8 Wilson, Union Square Ventures, and Erin Clift.

9 MR. MITCHELL: Thanks.

10 MR. LEASURE: Thank you.

11 (SEC Exhibit No. 197 was marked for

12 identification.)

13 BY MR. LEASURE:

14 **Q I've marked a copy of this subpoena as**

15 **Exhibit 197. Is this a copy of the subpoena you're --**

16 **subpoena you are appearing pursuant to here today?**

17 A Yes.

18 **Q Thank you. Is there any reason you'd be**

19 **unable to give complete and accurate testimony today?**

20 A Not to my knowledge.

21 **Q Okay. How did you prepare to come in for**

22 **testimony today?**

23 A I met with my legal team last week for two

24 days in Waterloo. Other than that, that's the only

25 thing that specifically comes to mind in preparing for

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1 today.

2 **Q Great. Roughly how many hours did you**

3 **spend with your legal team in Waterloo?**

4 A Roughly two eight-hour days.

5 **Q Great. I gave you this caution before we**

6 **went on the record, but I'm going to reiterate it**

7 **throughout the day. If you're about to tell me**

8 **something your legal team told you, pause and look to**

9 **your right to your lawyers, and they can help you with**

10 **the appropriate instructions. Okay?**

11 A Thank you.

12 **Q I can ask this: Roughly how -- did you**

13 **review documents with your legal team?**

14 A Yes.

15 **Q Roughly how many? Do you have a ballpark?**

16 A I think there were roughly 100.

17 **Q Okay. And did they help you remember past**

18 **events?**

19 A They did.

20 **Q Okay. Documents to do that sometimes.**

21 A Yeah.

22 **Q Okay. To start out today, I'd like to**

23 **get a -- we always ask witnesses for sort of their**

24 **resume level background and experience. With you,**

25 **though, from what I've seen and read, it seems like**

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1 your education and then work life is obviously tied up
2 with the founding and growth of the company, Kik,
3 K-i-k.

4 Can you maybe give us a sort of summary
5 level of sort of you went to school and then moving on
6 from there to the start of Kik?

7 A Sure. So I think probably the right place
8 to start is, you know, I went to college in 2005 to the
9 University of Waterloo for engineering. Lots of things
10 cool about Waterloo, but the coolest thing from my
11 point of view is in order to graduate, you do six
12 four-month co-ops.

13 Q What's a co-op?

14 A So a co-op is a full-time internship. So
15 it's basically like going into a real job for four
16 months, but then leaving after four months. I think
17 it's the largest co-op program in the world.

18 Q Wow.

19 A So I did my third, fourth, and fifth co-op
20 term at BlackBerry. And so I started at BlackBerry, I
21 think, May 2007. So just before the iPhone was
22 announced, I started at BlackBerry. It was awesome.
23 They were right beside the university. They hire about
24 2,000 interns every term, if you can imagine.

25 So 2,000 kids come in and leave every four

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1 inside the company. I got that job. I spent two co-op
2 terms in it. And I worked part-time in between, but
3 it's really more full-time. I was working about
4 40 hours a week while doing full-time engineering.

5 And I was -- sort of me on a team of maybe
6 me plus eight other people, the youngest one in the
7 team by ten years, roughly. Got to work with all of
8 the product managers. That was an amazing job. I did
9 well. They liked me. I liked them. This is now 2008.

10 And they offered me to drop out and come on
11 full-time and be the youngest product manager in the
12 history of the company, which I thought was super cool
13 and I was definitely prepared to do. But my boss
14 pulled me aside, he said, "Ted, you're really good at
15 this." And at the same time, I think BlackBerry is in
16 trouble, because, again, iPhone was just sort of
17 starting to, like, hit its stride.

18 "I think you shouldn't drop out and come in
19 full-time. I think you should go back to school and
20 start your own company." Best career advice I ever got
21 in my life. I am very thankful to that boss. So I did
22 that. So I went back to school in January 2009.

23 Wanted to start a company. I tried
24 starting a couple of companies before, you know, with
25 friends. It never really worked out. So I wanted to

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1 months. That was sort of the high times of BlackBerry.
2 And the coolest thing about that is they gave us all
3 BlackBerries with full data plans. So I got to live in
4 the world where literally everybody I would converse
5 with on a daily basis outside my immediate family had a
6 smart phone that was always on, always connected. And
7 this is like a world before iPhones.

8 Q Right.

9 A So I got to live in this, like, world we
10 live in today where everybody is always reachable
11 through a smart phone early before most of the world.
12 Started there in sort of a process job by day. I did
13 that process job by night. I wrote a piece of software
14 to replace myself. They really liked that. So they
15 brought me back part-time. They gave me a team of
16 developers. I did that.

17 After that, they were like, "You're really
18 good at this. Here's our binder of every internship
19 co-op job we have in the company. Which one are you
20 interested in?" So I went through. I was like, "Wow,
21 this is awesome." And what caught my eye was a
22 consumer product management job.

23 Again, iPhone had just come out. This is
24 when they thought, like, what consumer would want a
25 smart phone sort of thing. So it's a very small team

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1 take is seriously this time. And so I went -- they
2 just started a new dorm called Velocity. It was the --
3 it was only four months old when I moved into it. It
4 was basically 80 kids roughly who all wanted to start
5 companies.

6 So it was sort of cool because you knew you
7 could go live there with 80 other kids who were like
8 you wanting -- like, we're taking it seriously, wanting
9 to start tech companies. So that's what I did.
10 Originally, we were building a music app, but it turned
11 into a chat app. And it sort of went from there.

12 Q Okay. The University of Waterloo sounds
13 very cool, by the way.

14 A Yeah, it is very cool.

15 Q Yeah.

16 A It's the one school, I think, outside the
17 U.S. Bill Gates would go talk at and...

18 Q Right. Okay.

19 A It was cool. It's a great school.

20 Q Yeah. So moving ahead to Kik, then.

21 You said you started working on a music app
22 that transformed into a chat app.

23 A Yeah.

24 Q Can you walk me through that?

25 A Yeah. So we -- like, we loved our

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1 BlackBerry. I loved BlackBerry. There was a bit of
2 a hometown thing at the time with the iPhone coming
3 out, the BlackBerry could compete. Here we are today
4 as I have my iPhone. So I looked at -- I looked at my
5 BlackBerry. Again, I was coming from consumer product
6 management. And I said, this BlackBerry does a lot of
7 things great; messaging, e-mail, calendar, et cetera.

8 But the one thing it really sucks at
9 compared to iPhone is music. So we could -- like for
10 myself, I would want to build for myself a better music
11 app, but probably a lot of other people would want it
12 as well. So that's what we started with.

13 We're like, hey, we're going to build a
14 music app for BlackBerry. We worked with the labels to
15 get licensing. Tried to change for the model for how
16 music was tried and purchased and owned. As we were
17 working on licensing with the labels, which takes a
18 long time with very cool technology, so we started in
19 Canada, but then became Canada and the U.S. That sort
20 of slowed things down.

21 We realized two things. So one is people
22 would want to share music with their friends,
23 obviously. And two, those friends would be on multiple
24 different phone platforms. So we said -- we went to
25 BlackBerry. Our original plan was to share music

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1 through their messenger called BlackBerry Messenger.

2 So we had a BlackBerry app, they had a
3 BlackBerry app, we would connect the two. But we
4 realized, hey, people won't just want to share music
5 with their friends on BlackBerry, but also their
6 friends on iPhone. I think Android was just coming out
7 at the time as well. And so if that -- if we were
8 going to make that work, BlackBerry Messenger needs to
9 be on the iPhone as well.

10 And they said, "No, we're never going to do
11 that." And we said okay. And they said to us, "If you
12 want that, you should build it yourself." So we built
13 chat functionality into the music app. But we were
14 waiting for licensing, waiting for licensing. And so
15 we said, hey, while we're waiting for licensing, which
16 is, you know, always right around the corner, why don't
17 we break out the chat app and launch that as an
18 independent app.

19 Then you can have chat, you can have music.
20 But if you have both, they'll work together. So that's
21 what we did. We broke out the chat app. We worked on
22 that for a while. And then while we were waiting for
23 licensing, we relaunched the chat app, and it just took
24 off. Went zero to a million users in 15 days, million
25 to 2 million users in seven days, you know, the whole

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1 world.

2 You know, like Tencent, the big tech
3 company in China, said, hey, why don't we build WeChat,
4 one of the biggest apps in the world. That's when we
5 saw Kik go viral. I remember the time my mom calling
6 me and saying, you know, Whoopi Goldberg is like
7 talking about Kik on The View. And this is so cool.

8 And so just chat took off. And we had all
9 these investors fly in. They're like, you know -- and
10 isn't there a music thing as well? And we were like,
11 no, there's no more music thing. We're just focused on
12 chat.

13 **Q Okay.**

14 **A** So from then on, we were building a chat
15 app.

16 **Q What made it take off, looking back?**

17 **A** I think they were -- yeah. So, you know,
18 part of this is like getting a little lucky. And we
19 definitely got a little lucky. But when I go back and
20 think about, you know, trying to explain -- because it
21 was the fastest growing thing in, like, human history
22 at that point in time. Nothing had grown faster. No
23 disease, no spread of information.

24 It was like -- like, it blew up globally.

25 It was surreal. And I think it was, one, we were the

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1 first chat app with great support for all three
2 platforms, including BlackBerry. So, you know, you had
3 apps that were okay on iPhone, but almost always -- you
4 know, and I would even go so far to say as pretty much
5 always -- they were terrible on BlackBerry.

6 Why? Because BlackBerry was very hard to
7 develop for. It was a very, like, archaic platform.
8 It was never built with, like, third-party apps in
9 mind. So if you want to build a great app, it was
10 very, like, almost impossible to do so. So Kik was the
11 first app that was great on iPhone, great on Android,
12 and great on BlackBerry.

13 People had never seen an app like that on
14 BlackBerry before. It was smooth. It was beautiful.
15 It was like a real app. It wasn't just a bunch of text
16 boxes. So I think that was one part. And then you
17 combine that with BlackBerry users who knew the power
18 of BlackBerry Messenger, loved BlackBerry Messenger,
19 but at the same time were sort of getting made fun of
20 by their iPhone friends at this point for being on, you
21 know, yesterday's platform.

22 And then maybe third, actually, is we were
23 also the first to make it really easy to find your
24 friends using your phone number and your address book.
25 So you had -- we made it really easy to come on board,

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1 and we built a great experience for everyone. And
2 these BlackBerry users basically became our advocates,
3 like saying, hey, you have to get this. It's great for
4 not just for you, but also for us, for the first time
5 ever. And it just blew up.

6 **Q Got it. So the Kik app was created and
7 blew up in 2010; is that right?**

8 A Yeah. October 2010.

9 **Q Okay. Let's take that half of the decade,
10 2010 to 2015.**

11 A Okay.

12 **Q Did competitors come in, competing chat
13 apps?**

14 A So you want the history?

15 **Q Yeah.**

16 A Yeah. Yeah. I can give you the rest of
17 the story --

18 **Q Oh, yeah, go ahead.**

19 A -- if you want.

20 **Q Yeah.**

21 A Competitors definitely came in. So what
22 happened at that time, you know, 2 millions users,
23 everybody in the world is talking about us, is in
24 hindsight -- we didn't realize this at the time. In
25 hindsight, BlackBerry was viewing Kik as a threat to

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1 It's a cross-platform chat. And so it basically wiped
2 us out. That was, like, personally very tough for me
3 as well because there was a lawsuit, so, you know, you
4 can't say anything. But they implied a lot of things
5 about me personally. I had been at BlackBerry.

6 I worked at BlackBerry. I signed a
7 nondisclosure agreement. I signed an IP agreement.
8 It's like, so what are you saying, you stole this? No,
9 we're not saying that. It was, like, a tough time
10 personally for everyone. Fortunately, some top
11 investors in the U.S. realized that this is an amazing
12 team. This is just a big incumbent being threatened.
13 These are the guys to back.

14 So in March 2011, even though we had almost
15 no users at this point, we raised \$8 million U.S. from
16 Union Square Ventures, Spark Capital, and RRE. And
17 that saved the company.

18 **Q What was the last one?**

19 A RRE.

20 **Q Okay.**

21 A It's an acronym.

22 **Q Sorry.**

23 A Robinson, Robinson and Ellis, maybe. So
24 here we are in March 2011. I think we announced it
25 April 2011, something like that. So we have money, but

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1 BlackBerry Messenger, a competitive -- a competitor.
2 And they probably saw it in their data. I don't know
3 if they did or not, but I assume they did, with seeing
4 BlackBerry Messenger users using BlackBerry Messenger
5 less when they became Kik users.

6 Now, we had worked with them for years. I
7 had worked there. I knew a lot of people there. Not
8 at a senior level, because it was a massive company at
9 this point, and I was just, like, some intern kid. But
10 we had worked for them -- with them for a while. And
11 basically, they tried to kill Kik at that point.

12 So they kicked us off their platform. They
13 turned off push notifications. So messages would take
14 about an hour to deliver. They took us out of the app
15 store. They took away all access to their tools. And
16 they sued us for patent infringement.

17 And so basically, what that meant is at the
18 time, we had about a third iPhone, a third Android, and
19 a third BlackBerry users. And we lost 99 percent of
20 those users over by about three weeks. So we went from
21 literally the hottest thing on the planet to being,
22 like, yesterday's news in a matter of weeks.

23 Because even if you weren't on BlackBerry,
24 the odds are you were talking to somebody on
25 BlackBerry. That was the whole value proposition.

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1 we have no users. And so how do we get back in the
2 game? And so what we focused on was, one, okay, we're
3 never going to be SMS for free because we don't have
4 BlackBerry anymore. And so over time, WhatsApp took
5 that position. But at the time, we owned it.

6 It was sort of unfairly taken away from us,
7 from my point of view. So we couldn't be that. So we
8 focused on the differentiation of while in Kik, we'll
9 give you complete control over your identity. We won't
10 tie it to a phone number. We'll tie it to a username.
11 So if you just want SMS for free, we can't be that,
12 because we are sort of fundamentally handicapped there.

13 But if you want to come in, connect with
14 people all over the world, but have sort of complete
15 control over who you are, how you present yourself, you
16 should get Kik. So that was one of the things we
17 focused on, and then the second was becoming a
18 platform.

19 Do you have a question?

20 **Q I don't know. Got it. So you -- it sounds
21 like as a result -- correct me if I'm mischaracterizing
22 this. As a result of BlackBerry cutting you off of
23 their platform and what you perceived as sort of unfair
24 threats, shutting --**

25 A Unfair actions. I don't know about

1 threats. But unfair actions, yes.

2 **Q I didn't want to mischaracterize it. It**
3 **sounds like you -- Kik pivoted its value proposition to**
4 **users to attract them. Am I getting that right?**

5 A Not quite. Let me try to explain.

6 **Q Go ahead. Yeah.**

7 A So Kik was a messenger.

8 **Q Yup.**

9 A And so basically, if you want to chat with
10 your friends for free, really fast group chats, all of
11 these different things, you should get a messenger.
12 And Kik is a messenger. There are two different groups
13 who adopted Kik as a messenger when it went viral.

14 There was the people who are adopting it as
15 an SMS replacement, and there were people who were
16 adopting it as something better than SMS, different
17 than SMS, not tied to a phone number.

18 **Q Got it. SMS being the text message**
19 **function on your phone?**

20 A Text message, yes.

21 **Q And people would like to not use that**
22 **because I think at the time you had to pay for text**
23 **messages?**

24 A Correct.

25 **Q And so some people saw apps like Kik just**

1 **as a substitute for paying for text messages, right?**

2 A Correct.

3 **Q But you're saying, no, there was another**
4 **value proposition being offered aside from just being a**
5 **substitute for SMS?**

6 A Correct.

7 **Q Okay. And now, tell me about that value**
8 **proposition.**

9 A So -- and, you know, I think this is more
10 clear in hindsight than it was at the time, but we
11 could no longer -- all of those users, the 99 percent
12 left, right? Because they were looking for something
13 to chat with their friends no matter what phone they
14 were on for free, quickly, group chats, all those
15 different things.

16 We couldn't offer that anymore because we
17 couldn't -- BlackBerry at the time was like what
18 Android would be like today. It was a huge part of the
19 ecosystem. So we couldn't do that. WhatsApp
20 ultimately, from my point of view, won that race.

21 But for those people who stayed behind,
22 what did we offer them? It's that, you know -- a big
23 part of SMS is it's based on your phone number. So you
24 need a phone number and you need to give away your
25 phone number to everybody you want to talk to.

1 So what we said is Kik from day one was not
2 based on a phone number. It was based on a username.
3 So we could say to them, if you don't have a phone
4 number or you don't want to give away your phone
5 number, you should get Kik. So it wasn't that we
6 changed our focus. It's sort of we focused more within
7 our focus.

8 So of everybody who wanted to use a
9 messenger, someone wanted to use it for this reason,
10 someone wanted to use it for this reason. We focused
11 on these people.

12 **Q Got it. And why did that matter, the**
13 **ability to just sign up and use Kik just with a**
14 **username and not a phone number?**

15 A There's lots of people in the world who
16 don't have phone numbers.

17 **Q Sure.**

18 A So that was part of it. But there's also a
19 lot of people who don't want to give up their phone
20 number, want to connect with people. They come from
21 all sorts of different backgrounds. And, you know,
22 some people have great lives, and some people have a
23 less fortunate hand dealt to them.

24 And for those people to sort of eschew sort
25 of, like, the physical reality that was dealt to them

1 and they had no say in, and then basically take on this
2 digital reality where they can be who they want to be
3 was a powerful and is a powerful proposition.

4 **Q Other people suggested to us something I**
5 **just want to run by you --**

6 A Yeah, yeah, yeah.

7 **Q -- and see if you agree. That one of**
8 **the -- one of the key features you're accounting for**
9 **the messenger app's growth, I guess particularly in**
10 **this 2011 period going forward, was that it was a safer**
11 **place for younger people or --**

12 A Yeah.

13 **Q -- other people to express themselves**
14 **without having to, you know, have a phone, use their**
15 **phone number, that part of their identity.**

16 **Does that sound right to you?**

17 A Yeah. So within the -- within the "I don't
18 want to use a phone number," it can be for two reasons.
19 It can be because "I don't have a phone number," and
20 that's typically younger people. Or it can be "I don't
21 want to give out my number." And that could be young
22 people or older people.

23 **Q Sure.**

24 A So yes. I think it's both those things.

25 **Q Okay. And I think I keep cutting you off.**

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1 **Can you roll the camera forward on the Kik**
2 **story from that point?**

3 A Yup. So maybe -- that was one thing.
4 And I -- and I think it's fair to say we only
5 recognized -- like, really understood the power of that
6 later on. Okay? So what was our hypothesis at the
7 time? So we go viral. We show the world what's
8 possible. Everybody in the world is talking about Kik.

9 From our point of view, we get unfairly
10 taken out of that race. But we raised the money. And
11 so I'm thinking, how are we going to get back in the
12 game, how are we going to show the world that this
13 wasn't just a fluke, that we deserved it. Okay?

14 And the hypothesis at the time was, well,
15 we don't have BlackBerry anymore, but what's the one --
16 so anything we can do, WhatsApp, for example, could
17 just copy and put it on BlackBerry. So anything that's
18 trying to be SMS for free is going to be a losing game
19 because we had this fundamental handicap.

20 But the one nice thing about not having
21 BlackBerry is it's really hard to develop apps for
22 BlackBerry. So if we were to become a platform that
23 other apps could, you know, integrate into and spread
24 through and connect into, and those developers only had
25 to build for iPhone and Android -- because that's the

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1 **Walk me through the history.**

2 A So we spent a long time working on how to
3 become a platform. First with plug-in, native apps,
4 and web apps, and bots. So while all that work is
5 going on, Kik is starting to grow again at the same
6 time. And this is what I talked about, you know, that
7 we didn't really understand the power at the time.

8 We do now. But it's just this segment of
9 the world that doesn't want SMS for free, but wants SMS
10 without a phone number for various reasons. So that
11 started to grow. It started to grow really well,
12 culminating in 2014, Tencent investing \$50 million at a
13 billion dollar valuation.

14 **Q So you had more rounds of investment?**

15 A Yeah. So that was our, like, fourth --
16 like, our Series D, to use the terminology. We raised
17 our Series A in March, April 2011. Then we had a B, a
18 C, and then a D in 2014 with Tencent at a billion
19 dollar valuation.

20 **Q Okay. What happened after that Series D in**
21 **2014? Just a broad history of the company, what**
22 **happened after that?**

23 A So I think as we were coming into our
24 Series D, our growth chart had flattened out. We were
25 no longer growing. And we were very open about this

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1 only platform the Kik is on, Kik is only on iPhone and
2 Android, and not BlackBerry -- we could build a
3 platform in a very compelling way that maybe WhatsApp
4 couldn't because they'd be trying to score all these
5 BlackBerry users, too.

6 So when you send them something, you know,
7 iPhone and Android is fine. But on the BlackBerry,
8 they'd be like, wait, I can't use this, this is broken,
9 this doesn't work. So maybe we could turn it into an
10 advantage.

11 **Q Okay.**

12 A And so I think a big part of our story is
13 becoming that platform. We were the first chat app in
14 the world, to my knowledge, to launch an API so that
15 apps could plug into a mobile messenger. We launched
16 that in July 2011. And, you know, we launched a web
17 platform a couple of years later. We launched a bot
18 platform a couple of years later.

19 And so we've been, you know, trying to turn
20 chat into a platform to get back into the game for a
21 long time.

22 **Q Okay. And what happens next? I think I**
23 **understand the pivots or the changes that happened**
24 **following the BlackBerry challenge, if I can call it**
25 **that. What happens after those pivots?**

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1 with Tencent saying, like, hey, you know, we're
2 competing with Facebook. Seems like everything they
3 do, they just -- everything we do, they just copy.

4 And so, you know, we want to become this
5 platform. We've been working on this platform for a
6 long time. It looks a lot like the platform you guys
7 are building in China. And so what they effectively
8 said to us, they might have literally said to us, but,
9 you know, the culmination of the investment was, We
10 think chat is going to be hugely powerful in the world.
11 We see it ourselves firsthand in China. We think the
12 same thing is going to happen in the west. And right
13 now, if we had to guess who would make that happen, it
14 would be Facebook. But if there's anybody else who
15 could compete with them to make it happen, it would be
16 you guys. And so we'll invest, even though your growth
17 has plateaued, and try to help you to make it you
18 guys -- to make this happen in the west, because, you
19 know, you're really the pioneers here, and they're just
20 copying and crushing you.

21 So they made that investment. Turned out
22 it was harder than I think either of us thought. We
23 started to lose users. And as we lost users, we were
24 sort of, like, scrambling to try to get growing again
25 because as consumer company, the number one thing you

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1 must do is grow. So you lose some users. Everybody
2 gets more tense. They get more tense.

3 They scramble a little bit more. By
4 scrambling a little bit more, you make mistakes, you
5 lose more users, and on and on and on. And it sort of
6 became a negative reinforcing cycle of things not
7 working. You try to hire different people. And
8 sometimes they make it better, many times they make it
9 worse. And we were -- you know, I remember -- we
10 didn't realize at the time this was actually a systemic
11 thing in the mobile industry.

12 When people look back, almost -- you know,
13 Snapchat is losing users at this point. Everybody is
14 losing users except for these monopolies. So everybody
15 behind closed doors was saying, "We're losing users.
16 What are we going to do?" We didn't know that. We
17 knew we were having those discussions. We didn't know
18 how many other people were at the time.

19 But we were the first ones, I think, in the
20 world to admit it in the press. You know, a reporter
21 asked me, like, how is growth? And I said, we're not
22 growing anymore. And I remember he looked at me, he
23 was, like, shocked that I would say this on the record.

24 And then like -- did almost like a
25 double-take, and then went back, wrote the article, and

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1 our screens looked like and what their screens looked
2 like, and it was almost a pixel-for-pixel clone of what
3 we had done.

4 Same thing with the bot platform. We put
5 out the bot platform. I think it was 9 to 12 months
6 later, they put in an identical platform. So it was
7 on a -- you know, same things happening with Snapchat,
8 you know. Snapchat puts out stories, super successful.
9 Instagram and all Facebook products put out an almost
10 identical clone to that product.

11 **Q And how -- it might be obvious, but explain**
12 **to me -- I understand the copy piece.**

13 **How does that crush then?**

14 A The copy piece is -- there's two things you
15 need to do as a consumer company. You need to grow.
16 You need more and more consumers using your products.
17 And you need to monetize. The only way to monetize in
18 a consumer product or in any business, consumer
19 business, is to either sell something to consumers or
20 to sell their attention to somebody else who wants to
21 sell something to them, which is advertising.

22 So the copy and crush is anything you
23 wanted to create to monetize, say sell it, they would
24 copy it and just make it free. So that was no longer
25 an option. And so then your only option was to do

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1 then a bunch of people picked up the article. And at
2 the time, that was a tough thing as well. Like, "Why
3 are we admitting it?" Like, "What's going on here?"
4 It's like, "Listen, it's just the truth."

5 So it was this, like, tough time. And, you
6 know, I think what we didn't realize at the time is --
7 I think we put a lot of the blame on ourselves at the
8 time. But I think in hindsight, what we realized is we
9 were playing an impossible game.

10 **Q And if you had to -- I think I've seen you**
11 **talking about this over the years.**

12 **The core challenge that Kik is facing --**
13 **are we in, like, 2014, 2015, 2016, that period?**

14 A Yeah.

15 **Q Okay. The core challenge is that a**
16 **behemoth company like Facebook -- I think the phrase**
17 **you used is "copy and crush"?**

18 A Uh-huh.

19 **Q Walk me through that. Copy, Facebook**
20 **introduces its own messaging function. Is that it, or**
21 **is there some other aspect to the copy?**

22 A Copy is like at a feature level. So we
23 rolled out our native platform, for example, in July
24 2011. About two years later, they rolled out an almost
25 identical platform. I remember actually putting what

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1 advertising, just like them. The only way to get
2 advertising to compete with them -- Google and Facebook
3 have a duopoly on advertising -- is get to a
4 significant scale where you become interesting to
5 advertisers.

6 The only way to do that is to take on
7 significant investment, significant growth to try to
8 get to that scale. And so the copy and crush is as
9 you're trying to get to that scale where you become
10 viable and your business becomes viable, they're trying
11 to do anything they can to cut off your growth.
12 They're trying to copy and crush you.

13 Anything you do, let's copy them and let's
14 crush them. Let's put in maximum, sort of, torque
15 there to make them -- to make them lose.

16 **Q And the crush idea is they have scale -- so**
17 **many users that they can cut off your growth and users?**

18 A Anything we can do, they can copy and make
19 free.

20 **Q Right.**

21 A So either we -- it's already free on us.
22 But at a minimum, they can copy and then promote it to
23 their much bigger audience base. So, you know, the
24 majority of people, when they see it, they're like,
25 "Wow, Facebook is so smart. Look at what they've

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1 built." Whereas, you know, they didn't build it.

2 So anything that you can build to get your
3 consumers excited, and then you want to take it to new
4 consumers, you know, Facebook gets there first. So --

5 **Q Got it. I'm sorry to interrupt.**

6 A Yeah.

7 **Q You used the term "monetize."**

8 A Yeah.

9 **Q Like monetize the app? Can you just define**
10 **that for me? What does it mean to monetize an app?**

11 A To make money. To generate revenue.

12 **Q And Kik, is it right that up through 2016,**
13 **Kik wasn't significantly monetizing its app?**

14 A I think that's absolutely correct.

15 **Q Right.**

16 A And, you know, this is -- you know, we're
17 going to talk about Kin in a second, I'm sure, or at
18 some point. This was always the looming challenge,
19 which is how are we going to make money. Because --
20 you know, I talked about copy and crush at sort of a
21 consumer level in the consumer app space.

22 But then within messaging more
23 specifically, nobody was making money. And even today,
24 nobody makes money. iMessage does not make money
25 directly. Facebook Messenger does not make money.

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1 WhatsApp does not make money. Telegram does not make
2 money. They all have rich parents who make money from
3 somewhere else.

4 And so anything we could put in and then
5 sell, we knew our competitors would just copy and make
6 it free, making us look bad in a way in front of our
7 users. You know, "Oh, Kik is trying to charge you
8 money for that. They're such bad people. Look, we'll
9 give it to you for free."

10 So we couldn't sell anything. And anybody
11 who tried to put in advertising into a messenger, not a
12 feed-based app like Twitter or Snapchat stories or
13 something like that, but into a messenger, we saw
14 quickly disappear, to the point where there's no
15 significant advertising in any of the prominent
16 messengers today.

17 And so the question is: How are we going
18 to make money in a world where all of our competitors
19 have, you know, for lack of a better word, rich
20 parents, and we do not, and none of them make any money
21 on their messengers. And if we try to, we've seen
22 many -- you know, there was thousands of messengers at
23 one point, all competing to try to get to this end
24 game.

25 If we put in -- you know, we saw them one

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1 by one drop out trying to make money. And so our thing
2 was we just keep raising money and keep going because
3 these -- until we figure it out.

4 **Q Why not just advertise?**

5 **Why not just sell user data to advertisers**
6 **and let them advertise on the platform?**

7 A I think we always had a problem with
8 advertising from a philosophical point of view. We
9 never collected data on our users. We always believed
10 in privacy. That's why we chose usernames over phone
11 numbers originally. Like, you shouldn't have to give
12 away something that you could never take back. That's
13 sort of where we started.

14 So we never -- we sort of were always
15 philosophically opposed to collecting data. We were
16 philosophically opposed to advertising, which is
17 basically trying to manipulate somebody to buy
18 something they wouldn't otherwise buy most of the time.
19 And so we never liked advertising.

20 But at a practical level, it -- for two
21 reasons, it wouldn't work. One, we didn't have the
22 scale to be interesting to advertisers. Yeah, they'll
23 do trial things, and we did do many trial things with
24 different advertisers and brands, but not enough to be
25 interesting versus Google and Facebook's duopoly.

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1 But then, at a practical level, to do
2 advertising, what's been shown in consumer applications
3 is the most effective place to do that is you need them
4 to do some sort of passive consumption. You know,
5 you're scrolling through your Facebook feed. Like, oh,
6 that was an ad, and you just keep going. You're
7 scrolling through your Twitter feed, that was an ad,
8 just keep going. Going through your Snapchat stories,
9 oh, that's an ad, you just keep going.

10 Whereas, in Kik, we didn't have any form of
11 passive consumption. It was all active messaging. I
12 say "hey," you say "hey." There's -- never are you
13 ever a passive participant. And that was by design,
14 you know. We didn't want a passive consumption mode
15 because they you have to put in some sort of the
16 broadcast-type sharing; you know, Tweeting, posting on
17 Facebook, posting a story on Snapchat.

18 And we found that we felt that when you
19 added that to a product, it sort of turned into a
20 popularity contest, you know. "I want to post things
21 on Facebook so I look good and I can get a lot of
22 likes, and my friends can say how great I am." And
23 then people start filtering themselves. They start
24 becoming less authentic.

25 And that was part of the reason we started

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1 Kik to begin with because we hated that. We wanted Kik
2 to be the one place to go where you didn't have to
3 worry about how you were coming across to other people.
4 You could just come in and connect on a human level.

5 So for sort of all reasons, advertising,
6 despite we did spend some time trying it, we never
7 liked it. But it seemed like the only -- of the two
8 options historically, it was -- you know, we can't sell
9 stuff because they copy it and make it free, so this is
10 the only option left. So we did try it, but we never
11 liked it.

12 **Q Got it. 2016. Before -- some period**
13 **before the Kin project gets started, how would you**
14 **characterize the messaging app's user base?**

15 A In what way?

16 **Q Demographics, age, nationality.**

17 **At a high level, what did it look like?**

18 A Global, declining, all ages. But the
19 largest demographic would be sort of teenagers and
20 20-somethings in the U.S.

21 **Q Okay. Fair enough. And you had mentioned**
22 **some -- when we were talking about financing, you had**
23 **mentioned some early backing from venture capital**
24 **firms. Union Square was a key backer; is that right?**

25 A Correct.

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1 **Q And still are, correct?**

2 A Yep.

3 **Q Foundation Capital, when did they get**
4 **involved?**

5 A I want to say 2012.

6 **Q Like, a Series B or C?**

7 A They got involved with the Series B.

8 **Q Got it. Okay. Who would you say -- I**
9 **understand a lot of tech firms have key venture capital**
10 **backers. It's not just about money. It's about**
11 **guidance and experience.**

12 **Do you have venture capital backers like**
13 **that, sort of that have been guides for you over the**
14 **years?**

15 A Yeah. We definitely had many different
16 mentors, advisors, over the years. I would say the one
17 that sticks out is Fred Wilson from Union Square
18 Ventures, who invested and joined the board in 2011.

19 **Q Okay. And he's been sort of a mentor or**
20 **guide for the company over the years?**

21 A Yeah. Him and -- yeah. He's been an
22 advisor, I would say, a very active and very smart
23 advisor over the years.

24 **Q Any other firms or people at the firms that**
25 **had that role that you'd think of?**

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1 A I think early on, another guy who was very
2 influential was a guy named Adam Ludwin from RRE.

3 **Q Would you mind spelling that?**

4 A Ludwin?

5 **Q Yeah.**

6 A L-u-d-w-i-n.

7 **Q Okay.**

8 A He was a -- not yet a partner, but an --
9 I'm not sure if the right word is "associate" or -- I'm
10 not sure what one level is down from a partner. But he
11 was one of the employees of RRE. And he was one of the
12 first ones up in Waterloo when Kik was first taking
13 off. Like, he literally was there.

14 And I remember asking him, like, "So what
15 brings you to Waterloo?" And he goes, "What do you
16 mean? You guys." And so it was sort of, like, this
17 idea that somebody would come to Waterloo just to meet
18 us was sort of a novel concept. But he is a very smart
19 guy. He graduated top of his class at Harvard Business
20 School.

21 And so he eventually left the board to go
22 start his -- left the firm, and therefore, also left
23 the board just to go start his own company. But I
24 would say for the first three years, he was influential
25 as well.

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1 And then we've had other partners over the
2 years, you know. We had a guy named Anamitra. I can't
3 remember how to say his last name. I'd say Banerji,
4 but I don't think that's quite correct. But he was a
5 partner at Foundation Capital. He had been an early,
6 if not the first, product manager at Twitter.

7 So we spent time with him, time with his
8 partner, Paul Holland. Series C was a guy named Danny
9 Carrerian, I believe is how you say it. He's a -- I
10 think they called him partner at the private equity or
11 hedge fund.

12 **Q Okay.**

13 A And then -- yeah. I would say those are
14 sort of the key guys.

15 **Q And in terms of -- let's take USV.**

16 **Because Fred Wilson is a partner of some**
17 **sort at Union Square; is that right?**

18 A Correct.

19 **Q Did you deal with other people at Union**
20 **Square?**

21 A Yeah. Like, I would say, I met with other
22 people, his other partners occasionally, like, a
23 handful of times. But by far, I spent the most time
24 with Fred.

25 **Q So the other people at Union Square didn't**

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1 play the same role as sort of advising you --

2 A No.

3 **Q -- and dealing with the business as Fred?**

4 A I wouldn't say so. Like, they -- like, I
5 met them at -- like, at Union Square Ventures, they
6 would have CEO summits, for example. I would meet them
7 there. I might have done the odd phone call with them
8 over the years. But, like, nowhere near to the degree
9 that I would spend the time with Fred.

10 **Q Okay. So we're going to talk about Kin**
11 **very shortly. Right before that, is it -- right before**
12 **then, I take it -- let's go late 2016.**

13 **Kik was still struggling to -- is it fair**
14 **to say, to find a business model to compete with larger**
15 **competitors like Facebook?**

16 A I think we were struggling to make money
17 and struggling to grow. And the answer of "we'll
18 figure out how to make money later" was no longer an
19 option with investors. And I think, at the same time,
20 Facebook and others were realizing how important
21 messaging was in the consumer space and were massively
22 ramping up their investment to compete with us in the
23 space.

24 So on the growth side, we were becoming --
25 we were outgunned. And we were becoming quickly

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1 massively outgunned in terms of money being spent,
2 employees being deployed, to build a compelling
3 product. And then on the monetization side, we hadn't
4 yet found something that would work.

5 **Q And you said -- on the monetization side,**
6 **you said that it was no longer an option for your**
7 **investors just to tell them, "We'll make money**
8 **eventually"?**

9 A Yes.

10 **Q Is that right? Tell me about that.**

11 A I think -- like, I -- I don't know if it's,
12 like, that explicit. It's just this -- it became this
13 increasing realization that we were driving at a wall
14 and not -- you know, not just us, but, like, almost
15 everybody in the consumer space, you know. We weren't
16 going to be able to deploy more people and resources
17 than Facebook.

18 Facebook wasn't making any money on it.
19 But they didn't need to. So we're competing with
20 people who have billions of dollars to compete with us
21 with. They view this as critically strategic to their
22 strategy. And they have zero need to make money from
23 it.

24 So it's not like -- you know, when I'm
25 going and talking to potential investors, like, so how

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1 are we going to beat Facebook. And it got to the point
2 where it was like, I don't know.

3 **Q And you said it was never explicit. Did**
4 **you have a sense that investors -- investors in Kik**
5 **were clamoring for you to have an answer to that**
6 **question?**

7 A Yeah. I think, like, 2014 to 2016 were,
8 like, some of the toughest years of my life by a mile.
9 And when I say some of the toughest, by far the
10 toughest years of my life by a mile. Why? Because
11 when you're winning, everything is great and everybody
12 is happy. And, you know, everybody is excited to take
13 on the next challenge.

14 When you're losing, it starts to become the
15 opposite. And that becomes a self-fulfilling prophecy.
16 And people sort of get more scattered, less trusting.
17 Not just outside the company, but even inside the
18 company. People start seeing like, wait a second, we
19 might die here. And to manage a team and to manage an
20 investor base when it looks like you might die and to
21 try to turn that around is one of the toughest things I
22 think you can do in human existence.

23 **Q I think I read somewhere -- it might have**
24 **been a statement you made.**

25 A Maybe who, sorry?

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1 **Q That you might have made.**

2 A Uh-huh.

3 **Q That when Snapchat went public, that seeing**
4 **their financials, was an aha moment or was revealing**
5 **for you guys. Does that ring a bell?**

6 A Yup.

7 **Q Tell me about that.**

8 A There was a period inside -- there was a
9 period in time where we thought we were unique in our
10 struggles, you know. We said publicly to the press,
11 like, we're struggling. Nobody else said that. So we
12 assumed nobody else was saying that because nobody else
13 was struggling, you know.

14 Maybe that was -- that certainly was naive,
15 looking back. But -- so for a long time, we thought it
16 was unique to us. We thought it was because we didn't
17 know what we were doing. And we didn't realize it was
18 because what we now realize in hindsight is we were
19 playing an impossible game.

20 And so when we saw Snapchat's IPO
21 documents, what we realized -- because we had this
22 increasing sense that it wasn't just us, that it was
23 other companies. Actually, it was a lot of companies.
24 And then with Snapchat's IPO documents, we realized it
25 was all companies.

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1 Like Snapchat, of all consumer companies to
2 challenge the incumbent monopolies, had executed better
3 than anyone. They had raised billions of dollars of
4 capital. They had thousands of employees. And yet,
5 even they were struggling. And so for me, it was this
6 realization where I could say, listen, it's not us. It
7 is not just us. It's not just most companies. It's
8 pretty much all companies. If we are going to survive,
9 we need a new game.

10 And so for me, it was an aha moment, that
11 this new game I had been thinking about since 2011 was
12 not so crazy enough of an idea, and that now is the
13 time to put it into motion.

14 **Q And you're talking about crypto?**

15 A Correct.

16 **Q Okay.**

17 MR. SCHLEGELMILCH: Can I ask a quick
18 question, Jeff?

19 So is it fair to say that sort of going
20 into 2017, was there sort of a fear within Kik that Kik
21 could die?

22 THE WITNESS: Yes.

23 BY MR. LEASURE:

24 **Q And I promise we're going to talk more**
25 **about crypto because that happened in 2017, right?**

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1 A Uh-huh.

2 **Q Let's imagine that a pivot to that didn't**
3 **happen. Run through the scenarios otherwise facing**
4 **Kik. What could have happened to Kik in 2017 or 2018**
5 **absent the crypto project?**

6 A Going into crypto?

7 **Q Yeah.**

8 A It's hard to speculate on the future.

9 **Q Particularly now that it's passed. But**
10 **yeah, I understand.**

11 A Now it has passed?

12 **Q Yeah.**

13 A Like, at the time, like, it was very tough,
14 you know. One of our values is we're constantly -- we
15 look at all of the options. So we were constantly
16 looking at options over and over and over again. And
17 one of the options we were looking at is, like,
18 calculating severances, you know, and how much money do
19 we need to legally set aside for severances.

20 So it was a dire time. We faced many dire
21 times at Kik, you know. We've been trying to come back
22 from this fundamental handicap, you know. What is it
23 now? Like, over eight years ago. We've been trying to
24 get back in the game and get back on top. So we've
25 faced many sort of situations like this before.

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1 We only got one term sheet at our Series B,
2 one term sheet at our Series C, and one term sheet at
3 our Series D. And so what would we have done if we
4 didn't get those term sheets at each of those points?
5 You know, I don't know. It didn't look good.

6 But yet, we've always been able to figure
7 something else out. So in hindsight, it's sort of, you
8 know, it didn't feel like we had other options. But we
9 also have a history of finding other options.

10 **Q Right. Like how you approached the**
11 **BlackBerry challenge in late 2010?**

12 A Yeah. We have a history of figuring it
13 out, finding options other people miss.

14 **Q Okay. Let's talk money and financing just**
15 **for a minute because we are at the SEC. We've seen the**
16 **term "runway" used in connection with Kik's cash**
17 **situation.**

18 **If things didn't change and there wasn't a**
19 **move to crypto and Kik didn't raise additional money,**
20 **how long did Kik have to operate in late 2016?**

21 A I can't recall exactly. But I think the
22 rough calculation was we weren't making money, we were
23 spending money, and we had a -- we had money in the
24 bank. And so, you know, runway is the calculation of
25 how much money you have in the bank divided by the

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1 amount of money you spend every month.

2 And so I think the calculation around our
3 runway was somewhere in the end of 2017.

4 **Q Got it. And that was a helpful, I take**
5 **it -- let's call it a fraction of money in the bank by**
6 **how -- your spend rate. Taking that fraction in turn,**
7 **were there efforts in late 2016 to increase the**
8 **numerator, that is how much money is in the bank?**

9 **In other words, to bring in more money?**

10 A In 2016, I'm not sure. I can't recall
11 exactly what the efforts were. But I think they
12 weren't that big. Because for me, it's very hard to
13 sell a story that I don't believe. And so if I were to
14 go out and try to raise money, you know, and they asked
15 me the question like, but how are we going to take on
16 Facebook, I didn't -- like, with the traditional means,
17 I didn't have a good answer.

18 **Q Got it. So if you were to answer, "We got**
19 **a Facebook killer here. We got a way to build scale**
20 **and to take on Facebook on our terms," you wouldn't**
21 **have believed that at that time?**

22 A Since 2011, when I first started thinking
23 about crypto, I had this what I would call crazy plan
24 in the back of my head of something that might be a
25 third way to generate revenue as a consumer company.

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1 But it was something that was fundamentally new, had
2 fundamentally never been done before.

3 And so I knew that, especially at this time
4 when Kik was struggling, that bringing that option up
5 at the wrong time would -- like, I'd look crazy, you
6 know. Like, "Who is this guy?" Like, you know, "We're
7 struggling. We're trying to figure this out. And he's
8 off talking about some cryptocurrency thing." It's not
9 like today where everybody is talking about
10 cryptocurrency.

11 Back then, nobody was talking about
12 cryptocurrency. Bitcoin was viewed as a big failed
13 experiment. So I wanted to make sure I would exhaust
14 all of the other options first. So I could say not
15 only do I believe crypto is an amazing option, but good
16 news guys, it is also the only option, from my point of
17 view. So I think we should do it. But I think if we
18 do do it, we can do it without having any regrets.

19 **Q Got it.**

20 **A** And maybe -- can I add?

21 **Q Please.**

22 **A** And at that time, we looked at raising
23 money. We also looked at selling the company, you
24 know. And we looked around. All of our competitors
25 are spending millions, if not billions, of dollars

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1 investing in their products with hundreds, if not
2 thousands, of employees. And they make no money on
3 those products.

4 So it is fundamentally impossible for us to
5 compete with them as somebody who does need to make
6 money, has tens and, you know, barely 100 employees and
7 only has millions of dollars. So we also went out and
8 said, well, maybe an option is to look for our own,
9 quote, unquote, rich parent.

10 And so we went out and we talked to all of
11 the big tech companies and big companies around the
12 world that saw that messaging was strategic but didn't
13 have their own messenger. But the killer -- you know,
14 we had a great story of why we were the innovators, why
15 we were where we were, all of these pieces.

16 But the question I couldn't give a good
17 answer to at the end of it is, "Okay. We agree with
18 you it's strategic. We agree with you that you guys
19 are leading experts in this field. That you have an
20 amazing team, amazing technology, amazing product. But
21 Facebook continues to copy and crush you. If you had
22 our resources and our team and we had to go head to
23 head versus Facebook together, how would we win
24 together? What would we do?"

25 I did not have a good answer to that

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1 question because it felt like Facebook had won.

2 (Discussion off the record.)

3 BY MR. LEASURE:

4 **Q All right. Let's start again. We see a
5 process -- we just see documents.**

6 **A** Yeah.

7 **Q But it's helpful to talk to a human being
8 about them. We see a process with the investment bank,
9 Credit Suisse --**

10 **A** Yup.

11 **Q -- looking around for financing. Does any
12 of that ring a bell? Do you recall that?**

13 **A** Yes, I do.

14 **Q And what were they looking for? An
15 acquirer, a source of new capital, all of the above?**

16 **A** Technically, they were looking for both.
17 But primarily, they were looking for an acquirer.

18 **Q And is that the process you were just
19 describing of --**

20 **A** Yeah.

21 **Q -- even with an acquirer with good
22 resources, you'd still have to answer fundamentally?**

23 **A** Yeah. I'm sorry, what's the question?

24 **Q The question was: Credit Suisse was
25 looking for an acquirer, and you met with -- or they**

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1 **discussed the possibility of Kik being acquired by
2 someone, correct?**

3 **A** Correct.

4 **Q And you described earlier the process where
5 even in discussions with acquirers -- potential
6 acquirers, the question would still be, okay, how are
7 you going to compete against Facebook?**

8 **A** Even with our money and our team.

9 **Q Right. And that was the Credit Suisse
10 process?**

11 **A** Correct.

12 **Q Was there ever a valuation prepared for,
13 like, the value of Kik during that Credit Suisse
14 process?**

15 **A** I think there was a model prepared. I seem
16 to recall that, you know, looked on comparables and
17 looked at a bunch of different ways of what Kik
18 hypothetically could or should be worth.

19 **Q Was it in the same range as it was for
20 Tencent in 2014, I think, of a billion?**

21 **Was it less than that?**

22 **A** I can't recall.

23 **Q Okay. Early in 2017, was there a
24 possibility that Kik might have to reduce costs and
25 fire employees?**

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1 A Say the question one more time.

2 **Q Sure. Early 2017 --**

3 A Yeah.

4 **Q -- before the pivot to crypto was**
5 **announced, was there a possibility that Kik would have**
6 **to cut costs and fire some of its employees?**

7 A It was one of the options we were
8 considering.

9 **Q I see in the documents sort of head count**
10 **listings and scenarios.**

11 A Yeah. Like, one of our values is we look
12 at all of the options constantly. That's how we
13 discover things that the rest of the world misses. And
14 so one of the options we were looking at, because it
15 was an option, you know, raise money, sell the company,
16 lay off a bunch of people. These were all options. We
17 were looking at all of them.

18 **Q It's hard to tell from cold documents,**
19 **right? I'm reading board decks and things. I had the**
20 **impression from the cold documents that the idea of**
21 **firing employees really did not appeal to you or that**
22 **you were -- you would seek out other options well**
23 **before you'd be willing to let people go from Kik.**

24 **Is that fair or a misreading of the**
25 **documents?**

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1 A Let me step back. Like -- nobody likes to
2 fire anybody, obviously. I did have experience firing
3 people, you know. We shut down our LA office with six
4 or seven employees in there, and laid off other people
5 as well. We had done a layoff before. So I wouldn't
6 say -- I don't like doing it, but I don't -- I wouldn't
7 say I wouldn't do it.

8 I think what I would do, if it was in the
9 best interest of the company, if I thought laying off
10 or firing, to use your terms, was in the best interest
11 of the company, meaning that it maximized the chance of
12 Kik succeeding, then I would have done it.

13 **Q Okay. In terms of your own holdings and**
14 **interests in Kik -- Kik is a private company, correct?**

15 A Uh-huh.

16 **Q Do you own Kik stock?**

17 A I do.

18 **Q What percentage -- do you know roughly what**
19 **percentage of Kik's outstanding stock you, yourself,**
20 **hold?**

21 A I don't know exactly, but I could guess.

22 **Q Please.**

23 A Somewhere around 30 percent.

24 **Q 30 percent. Who are the other major**
25 **holders of Kik's stock?**

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1 A Investors, early employees. But I'm
2 certainly -- I believe I'm the largest.

3 **Q Okay. And the other major holders are some**
4 **of the early -- or the --**

5 A My co-founder, other investors, et cetera.

6 **Q Have you sold stock, Kik stock, over time?**

7 A I believe I did sell some Kik stock at our
8 Series C financing. But I believe that's the only time
9 I've sold Kik stock.

10 **Q Okay. And moving ahead a bit to Kin**
11 **tokens. Do you personally own any Kin tokens?**

12 A I personally bought \$10,000 worth of Kin
13 tokens in the token sale. But I haven't claimed those
14 tokens yet. And I haven't done anything with them yet.

15 **Q Okay. So if I were to try to understand,**
16 **you know, your own skin in the game or financial**
17 **interest in the Kin project --**

18 A Uh-huh.

19 **Q -- is it right that you indirectly have an**
20 **interest in Kin as a 30 percent or so owner of Kik,**
21 **which in turn holds some amount of Kin?**

22 A Yes.

23 **Q Okay. Is there any other way you'd think**
24 **about just your financial interest in the project, the**
25 **Kin project?**

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1 A I think what I recognized back in 2011 is
2 that launching our own cryptocurrency could be a
3 fundamentally new way to monetize the business, a new
4 way to build a consumer experience, a new way to
5 compensate our shareholders, like, you know, realize
6 that it was sort of the ultimate win-win-win.

7 So I would say, yes. You know, part of the
8 reason why we went into crypto is because we would hold
9 a piece of an asset. And the shareholders would own
10 that asset. And I was one of those shareholders.

11 **Q Got it. Was it also a way to obtain**
12 **financing for Kik?**

13 A I think it was a way to bring money into
14 the company, yeah. Again, back then, like, crypto was
15 a totally, totally new thing. So I wouldn't call it
16 financing. I would call it, like, revenue. It was a
17 way to make revenue.

18 **Q Okay. Early 2017 -- I just want to talk**
19 **about the Kik org chart for a second.**

20 A Okay.

21 **Q Who were the key managers in place?**

22 A Early 2017?

23 **Q Yeah. Right before the announcement of the**
24 **Kin project.**

25 A Like, are you asking for, like, the org

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1 chart at the high level or --

2 **Q The highest level. Who were the key people**
3 **that you had in positions?**

4 A So it was myself. It was Peter as our CFO.
5 Early 2017. Eran as our chief product officer. Alim
6 as our chief people officer. Erin, I believe, as our
7 CMO.

8 **Q Erin Clift -- I'm sorry to interrupt --**

9 A Erin Clift.

10 **Q -- is the chief marketing officer?**

11 A Marketing officer, yep.

12 **Q Okay.**

13 A I'm forgetting other people for sure.

14 **Q Let's take Erin Clift.**

15 **Did you think she was doing a good job?**

16 A I think we were all trying to figure it
17 out. You know, I think at the time it was -- like, lot
18 of those people were new managers, like, new leaders
19 inside the company. Like, Erin was brought on somewhat
20 recently. Eran was brought in through an acquisition
21 recently, put into that role recently. Alim was
22 brought on somewhat recently.

23 So it was -- I would say it was, like, the
24 second leadership team I had at Kik. I had the same
25 leadership team for roughly the first seven years or

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1 A So maybe the -- we'll go way back in the
2 history of Kik. I always -- I didn't like -- like,
3 "How are we going to make money one day" is obviously a
4 question you get as a business. As a music app, it's a
5 little bit more obvious. Hey, you sell the music
6 because you have to sell the music. And everybody
7 sells the music. So nobody can offer it for free and
8 just undercut you. So that was the original revenue
9 model.

10 Then Kik Chat takes off. And so now we
11 lose our music model because we're not doing music
12 anymore. But at the same time, it's like, well, that
13 doesn't matter because now you're a hot consumer app.
14 And consumer app, the -- or consumer startup, the
15 playbook is always grow, grow, grow now, monetize
16 later.

17 And so when we made the shift from music to
18 chat, we were growing. We didn't have to think about
19 revenue because that wasn't part of the strategy for
20 how to grow a consumer company. That's something you
21 can always figure out down the road. But I knew
22 personally, as the CEO, that one day down the road
23 would come. And I knew that there were only two
24 options. The only two options are either you sell
25 something or you sell advertising.

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1 something like that. And so I don't think there's,
2 like, good job or bad job. I think it was we were all
3 scrambling, looking at where we were as Kik through our
4 own lens and trying to figure out how to save it.

5 MR. LEASURE: Got it. Let's take five.

6 Can we go off the record.

7 THE VIDEOGRAPHER: Going off the record.

8 The time on the video monitor is 10:48 a.m.

9 (A brief recess was taken.)

10 THE VIDEOGRAPHER: We are back on the
11 record. The time on the video monitor is 11:04 a.m.

12 BY MR. LEASURE:

13 **Q Back on the record after a brief break**
14 **during which, Mr. Livingston, did you have any**
15 **substantive conversations about this investigation with**
16 **SEC staff?**

17 A No.

18 **Q I'm going to ask that every time.**

19 A Okay.

20 **Q I'm sure there's a reason I ask it. I**
21 **don't particularly know, but there's -- I will ask it**
22 **each time we come back on the record.**

23 So we've been foreshadowing a pivot to
24 crypto. Tell me, in your head, how the idea of Kik one
25 day maybe entering the crypto space came up.

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1 And I knew that selling something probably
2 wouldn't work because I've seen the competitive
3 dynamics. And, you know, what I would do if I were one
4 of the competitors that are just copying what we were
5 doing or make it free. So I knew that wouldn't be an
6 option. And both philosophically and practically did
7 not like the option of advertising.

8 So really, if you had asked me back then,
9 like, what are the options before I learned about
10 Bitcoin, I would say I don't know. But our investors
11 say, it's fine. We can figure it out later. So we're
12 going to figure it out later.

13 So I was always on the look out for another
14 business model. It was always my dream to build a big
15 independent company, not to just sell it along the way.
16 And if we're going to be a big independent company, one
17 day, we would have to make money. But the only two
18 options that seemed to exist didn't appeal to me.

19 So I was always on the lookout. And so
20 when I first read about Bitcoin, which I believe was in
21 2011, I almost immediately realized that this could be
22 a third way to make money. Because what I realized on
23 one side is that Bitcoin was this fundamentally new
24 technology where for the first ever, you could
25 guarantee the scarcity of a digital asset.

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1 So before you can guarantee the scarcity of
2 something, by choosing something physical, like gold,
3 nobody can create more gold, it's a pain to move gold
4 around. But on the other side, you got something
5 digital, like points or dollars, easy to move around.
6 But whoever controls the database can make more
7 whenever they want.

8 Now, with Bitcoin, for the first time ever
9 in human history, you could have both of those
10 properties at the same time. So what that meant is,
11 you know, if Bitcoin -- the supply was fixed. There
12 would never be more than 21 million Bitcoins. That was
13 guaranteed by math and cryptography.

14 So that if the demand for Bitcoin grew,
15 then the price of Bitcoin would grow, right? Supply
16 stays fixed, demand grows. Price is a function of
17 supply and demand. So now, really, price is just a
18 function of demand. So that if -- you know, if we had
19 created Bitcoin, and we had set a big chunk of it aside
20 for ourselves at the beginning, then this could be a
21 fundamentally new business model where instead of using
22 our community to try to sell them something, or using
23 our community to sell their attention to somebody else
24 through the form of advertising, we could use our
25 community and get them to start transacting in this

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1 currency, creating demand for the currency, growing the
2 value of that currency; and therefore, growing the
3 value of the currency that we held. Okay?

4 And so that was what got me excited about
5 Bitcoin as a technology. And there was another thing
6 that got me excited about Bitcoin, which was at the
7 same time, while Bitcoin was amazing, I also thought it
8 was fundamentally flawed. And I thought the flaw was
9 is that it had a very bad go-to-market as a heat
10 currency.

11 You know, everybody is talking about
12 Bitcoin. Oh, we're going to buy coffee with it and
13 plane tickets and all of these different things where I
14 could already use dollars. So as a consumer, why would
15 I want to buy a currency -- a different currency to buy
16 something when I could just buy it with the currency I
17 already have?

18 And as a merchant, why would I want to
19 accept a currency when I could just accept it in a
20 currency where -- the same currency that all my
21 expenses were in. And so for me, there's this, like,
22 fundamental flaw where Bitcoin was this amazing
23 technological and economic innovation, and yet, it was
24 fundamentally flawed in its go-to-market.

25 And I actually went to a Bitcoin conference

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1 in January 2012. It's me and, like -- I think there
2 were 12 other people there, something like that, 13 of
3 us. One of them was the lead developer of Bitcoin.
4 And I was like, "Guys, this is going to change the
5 world. This is an incredible innovation that so few
6 people understand. But how are we going to get people
7 to use it?"

8 And everybody sort of sat around in the
9 room and was like, "Well, we don't know. But right
10 now, that doesn't really matter because we're focusing
11 on the technology." Most of these guys were engineers.
12 And that's where I said, "Well, you guys focus on the
13 technology. That's fine if you want to do that. But
14 I'm going to go focus on the go-to-market."

15 And my thesis was -- you know, Bitcoin was
16 trying to focus on the digital world. But the digital
17 world -- or, sorry. Let me correct that. Bitcoin was
18 focused on the physical world. But the physical world
19 already had a currency. But in a way, we had our own
20 digital world, you know.

21 In a way, we had our own digital country, a
22 country where millions of people are showing up every
23 day and interacting with each other. But that digital
24 world, one, did not have a currency. And two, we
25 could, as the owners of that digital world, give them

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1 and choose which currency they were going to use.

2 **Q So the idea of -- because you, Kik, ran a**
3 **digital world, that solved the flaw you saw in Bitcoin?**

4 A Yes.

5 **Q Why would people spend in a physical world?**

6 A Correct.

7 **Q Okay.**

8 A Like, what would be the fastest way to get
9 everybody in the world using Bitcoin every day, if the
10 United States government said, "Hey, from now on, the
11 only way to buy coffee is with Bitcoin." And then
12 everybody would go, "Oh, fuck. Okay. How do I" --
13 sorry. "How do I get Bitcoin? Because I really want
14 coffee." Right?

15 Boom. Bitcoin would be super used
16 overnight. But, of course, the U.S. government is
17 never going to do that. They already have a currency.
18 We could effectively do the same thing, but within our
19 digital country. We could say if you want all of these
20 things, the only way to get it is with what became Kik
21 Points. And so everybody would say, "Okay. Well, how
22 do I get Kik Points?"

23 **Q So by 2011 or 2012, you had this vision or**
24 **idea that you see as a potential to monetize the Kik**
25 **community; is that fair?**

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1 A I got very excited about the idea that this
2 could be a third option as a way for consumer apps to
3 make money.

4 **Q Got it. Why not introduce a crypto in 2012
5 then?**

6 A Or 2013, '14, '15, '16.

7 **Q Sure.**

8 A I think for a few reasons. So back then,
9 there wasn't the pressure to make money that there was
10 later. So I think that was one of it. Second is this
11 Bitcoin thing was a brand new thing. Like, very few
12 people in the world understood what was happening with
13 Bitcoin. I was in a room with 12 other people, like
14 the who's who in Bitcoin. And there's -- it's less
15 people in the room than at this table.

16 So it was a very new and novel idea. So I
17 think while I viewed it as it could be a one day
18 solution, that it wasn't required today. And, in fact,
19 you know, I get excited about different options and
20 about the future. And that's something I'm very good
21 at is sort of seeing the future early. But then I want
22 to confirm it for myself that it's viable.

23 **Q What did that take with crypto?**

24 A So the logic for why crypto could work as a
25 business model, the logic was very good. And the logic

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1 when I think back to who I went to inside the company,
2 I'm not -- like, a lot of this, I was just doing the
3 thinking on my own. I might have talked to my
4 co-founder. I haven't asked him since then.

5 He left the company sort of two years ago.

6 I know I brought it up to him at some point, but I'm
7 not even sure when that was. Because the idea that
8 you're going to invent the third, meaning there were
9 only two before it, business models for consumer
10 applications in history, and that business model is
11 you're going to launch a new economy around a new
12 currency, you're going to own a piece of that currency,
13 and that piece you own will be your ultimate economic
14 reward, today it seems straightforward, but even a year
15 ago, it was, like, a crazy idea.

16 **Q It wasn't a tested or thought about
17 business model in 2012, '13, '14?**

18 A Even today, when I talk to people in the
19 cryptocurrency industry today, lots of people do not
20 understand this.

21 **Q Okay. But I also take it part of what made
22 the project emerge in 2017 and not 2012 is you were
23 facing more pressure for monetization and pressure from
24 investors; is that fair?**

25 A I'd say in 2012, it was a very crazy idea.

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1 back then is the logic today, and it has proven to me
2 to be totally true. But people always say, "Well, what
3 data do you have to validate your hypothesis?"

4 You know, I'm a very gut-driven person, a
5 logic-driven person. But when you're trying to
6 convince a group of investors, a team, all of these
7 different people, that, hey, of all our very small
8 amount of resources that we're trying to allocate to
9 win and survive and build a business, that we should
10 spend some of those resources on this, you know. It's
11 not just a "Well, I thought it was a good idea."

12 And that becomes especially true when
13 you're struggling. Then it's even more important to
14 have a bulletproof argument for why this is a good idea
15 because people both outside and, more importantly,
16 inside are naturally skeptical.

17 **Q Let me make sure I understand that.**

18 **Is it fair to say that in 2012, had you
19 gone to Kik's backers, its investors, and said, "I want
20 to pivot to crypto," it wouldn't have been a known
21 tested thing in the world that they would have heard
22 about and embraced at the time?**

23 A I didn't go to any of our investors at the
24 time. In fact, the first investor I went to, to the
25 best of my knowledge, is Fred Wilson in 2016. And even

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1 It's not a crazy idea we needed to pursue yet. It was
2 just sort of like what could be a third option one day.
3 So for all of those reasons, I could sort of slowly
4 build my own internal case for why this made sense.

5 **Q And it was -- it was you building the
6 internal case within Kik; is that right?**

7 A Correct.

8 **Q Were there any other people who were
9 championing the crypto project other than you?**

10 A Internally?

11 **Q Yeah.**

12 A I'm -- it's possible -- again, I'm -- I
13 believe the first person I told -- the first person I
14 told of our investors was Fred Wilson in 2016. Before
15 that, I probably told Chris Best, but I'm not even
16 certain of that. And then outside of him, I'm fairly
17 sure I didn't tell anyone, or at least not until right
18 around when I told Fred.

19 **Q Chris Best was the co-founder of the
20 company?**

21 A Correct.

22 **Q Okay. You were the driver of the Kin
23 project, what became the Kin project?**

24 A Correct.

25 **Q Okay. There's a project that I think you**

1 mentioned publicly before called Kik Points.

2 A Uh-huh.

3 **Q What is Kik Points?**

4 A Kik Points was the first version of a
5 currency inside of Kik. And what made it different
6 versus other currencies was -- there's lots of
7 currencies in apps, in-game currencies. But all of
8 those currencies are really just a proxy for dollars,
9 you know. You buy 100 gems for a dollar, and then you
10 spend your 100 gems, you know, one penny worth at a
11 time.

12 Whereas, what we want to do with Kik
13 Points, what I wanted to do with Kik Points
14 primarily -- my primary goal, which I did not share
15 with, I believe, anyone else at the time, but if I
16 shared it with anybody, it would have been Chris, was
17 to test this idea of launching a currency inside of our
18 community where it wasn't a currency you would buy and
19 spend, but a currency that you could only earn and
20 spend.

21 So there was no way to buy Kik Points. It
22 was like its own little digital country. You could
23 earn it and you could spend it, but that was it. It
24 was its own internal currency. That was my primary
25 goal of launching Kik Points. But, again, I'm -- you

1 know, we have a long history of doing more with less as
2 this little company that keeps surviving and keeps
3 playing against these giants.

4 We have to do more with less. And so I
5 knew that alone would not be enough. It was too crazy
6 of an idea to convince people that this was worth
7 spending engineering and product resources on and legal
8 resources on and all these different things. So there
9 is a secondary benefit to Kik Points, which is it was
10 also a way -- a better way to get people to opt into
11 advertising. And that could generate revenue.

12 So, hey, we don't have a feed where we just
13 show ads. We don't want a feed because that sort of
14 goes against our philosophy for what we want Kik to be
15 as a product. But what if who launched a currency that
16 the only way to get certain things within the product
17 was with that currency. And the way to get that
18 currency on day one was to watch advertising.

19 So in effect, you know, now it's not just
20 you're watching ads and you see none of that value for
21 yourself, now you're choosing to watch ads and you're
22 getting paid to watch ads. And that could be great for
23 our users because they're opting in. It's their data.
24 They're monetizing their own data. But it could also
25 be a revenue model for us.

1 **Q Right. So what was different between the**
2 **future Kin project and Kik Points?**

3 **How were they different?**

4 A Got it. Like just -- they're different in
5 a bunch of ways. Like, where do you want -- that's a
6 big question. Like, technically, philosophically,
7 strategically?

8 **Q Yeah. Let's talk strategically. I take it**
9 **Kik Points, it was decided not to keep investing**
10 **engineering resources on it, correct?**

11 A Kik Points was, again, these -- was testing
12 these two hypotheses. One was that you could get a
13 community transacting in a new currency that you didn't
14 have to buy, you would earn and spend. And two was it
15 was a way to generate advertising revenue. I would say
16 it disproved the second hypothesis.

17 It was not a good way to drive advertising
18 revenue, at least not to the degree we needed to become
19 profitable. But it was great way with smashing success
20 of getting people to adopt a currency that they would
21 earn and spend.

22 **Q Yeah. I think I saw maybe some of your**
23 **public statements saying that the velocity of**
24 **transactions on Kik Points exceeded Bitcoin**
25 **transactions, right?**

1 A Correct.

2 **Q People were using it. Was there a way to**
3 **transfer Kik Points into the physical world outside of**
4 **Kik? In other words, trade Kik Points for dollars?**

5 A There was not.

6 **Q Was that a difference between Kik Points**
7 **and what became the Kin project?**

8 A Yes.

9 **Q And is that important?**

10 A What do you mean by "is that important"?

11 **Q Is that difference, the transferability to**
12 **the outside world, did that make a difference in the**
13 **success of the two projects?**

14 A It made them different.

15 **Q Okay.**

16 A So if Kik Points was a cryptocurrency but
17 could never be traded for dollars, then it wouldn't
18 work as a fundamentally new business model for
19 developers. And it would also inhibit consumers
20 because, you know, the goal was to prove that we could
21 get the majority of people earning a currency.

22 But then, certainly, there would be some
23 people, like, "Hey, I don't want to watch ads. Is
24 there just some way to buy this?"

25 **Q Right.**

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1 A And we would want to offer that as well.

2 **Q And I take it Kik couldn't -- just with a**

3 **project like Kik Points, other than generating limited**

4 **advertising revenue, Kik itself couldn't monetize its**

5 **app, right?**

6 A Sorry. I'm not sure I understand the

7 question.

8 **Q Yeah. Sure. I'm trying to explore what --**

9 **Kin is transferable outside of the Kin project, for**

10 **dollars or other currencies, right?**

11 A Right.

12 **Q Kik Points were not?**

13 A Correct.

14 **Q I'm trying to understand if that -- if that**

15 **difference mattered or -- between the two projects.**

16 A I think it did matter. I think, you know,

17 the fact that Kik Points was not transferable made it

18 not a business model for us or anybody else and also

19 slowed down the growth of the economy. The other piece

20 that comes into the factor here is, like, the money

21 transmission laws.

22 You know, Kik Points, we could transfer

23 because there was no in or out. And so that let us do

24 that and yet not be a bank. Whereas, now, with

25 blockchain, you can allow that transferability and also

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1 not be a bank. So I think that was part of the -- that

2 was part of the equation, too, is that it's not that we

3 didn't want to launch transferability of Kik Points,

4 but that we could not with the financial technology.

5 **Q Got it. I think this is outside of Kik**

6 **Points, but was there ever any discussion or**

7 **exploration within Kik of the idea of using some kind**

8 **of dollars or Kik cash?**

9 A Yeah.

10 **Q Okay. Tell me about that.**

11 A You're discovering why Kin was, like, the

12 killer win-win-win solution to a bunch of challenges we

13 had. Because as we were -- you know, we talked about,

14 you know, this is just, like, a totally separate arm of

15 a different problem we needed to solve. So I talked

16 about we were building this platform.

17 We're building a native platform, a web

18 platform, a bot platform. And all those -- many of

19 these interactions for -- especially for bots would end

20 in, like, an exchange of money. We talked about being

21 able to walk into restaurants, scan the Kik code, tell

22 the bot what you want for launch, say, "Yes, I'll pay,"

23 and then, boom, your lunch just magically shows up.

24 This bot platform actually was a big reason

25 why Tencent invested in Kik. But the challenge was at

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1 the end of every of those interactions, you needed to

2 pay money. And so we looked at all the options. How

3 can we get money into the system, looked at all the

4 different partners we can integrate, like Stripe, et

5 cetera, or companies like them, to add payments into

6 the system, add your credit card.

7 We realized a lot of our users didn't have

8 credit cards. We looked at doing our own credit card.

9 I still have this very cool Kik branded Mastercard that

10 we were considering launching. But what we realized

11 with all of this is the current financial

12 infrastructure was so complicated that we would show

13 Facebook, for example, how to make bots work, how they

14 could change the world. But then we'd be so dragged

15 down, and all of the things we would need to do to make

16 the financial side work, that by the time we got those

17 working, they would have long copied and crushed us.

18 So I think the other very cool thing about

19 Kik Points and Kin is it was a way to add transactions

20 to the ecosystem that we knew we needed to make the

21 platform succeed, but in a way that was much sort of

22 more efficient and cutting edge and we could move

23 quickly on, and so that we could actually get in front

24 and get to this escape velocity before Facebook could

25 copy and crush us.

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1 MR. MITCHELL: What does "escape velocity"

2 mean?

3 THE WITNESS: Escape velocity means that

4 you get to a point where -- so you're trying to launch

5 something new. In software, anything can be copied.

6 Increasingly, these big companies are blatant about

7 copying and aggressive. It used to be a bad thing.

8 Oh, you don't want to copy. But now, they're like,

9 yeah -- like, you know, when Instagram launched

10 Snapchat's stories' clone, they were like, "Yeah, we

11 just copied it." They don't even pretend anymore.

12 It's just like, "Of course we would do that."

13 So escape velocity is this idea that you

14 can set up a new product and it starts going, meaning

15 it starts generating its own momentum. The network

16 effects start to kicks in such that by the time a

17 competitor realizes what's happening and starts putting

18 in place with their mass of resources of money and

19 people, it is too late, they cannot catch the network

20 effect, and so you have reached escape velocity.

21 MR. MITCHELL: So just before I ask my

22 question, the product you were talking about was the

23 Kin product, the Kin tokens?

24 THE WITNESS: Kin was a tool. The product

25 I'm talking about in this case was the bot platform.

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1 BY MR. LEASURE:

2 **Q But the same concept of achieving escape**
3 **velocity to avoid being copied and crushed applies to**
4 **the Kin project, right?**

5 A In this example, if one restaurant had this
6 killer experience where you walk in, you scan the code,
7 like click, click, click, your food magically shows up,
8 and then it's like an Uber, you just walk out at the
9 end, it was a killer experience. We had ran trials
10 with McDonald's and Burger King, for example. It was
11 killer.

12 But at the end of those, you need to pay.
13 Okay? "You want fries, a burger? Okay. It's
14 five bucks. Yes, you'll pay? Okay. Great. It's on
15 its way." So in this case, you know, we could do one
16 restaurant. But then we would need all of the
17 infrastructure in place to be able to get all the
18 financial infrastructure in place so that people could
19 pay for these things, get all the restaurants on board,
20 show them, "Hey, look at what's happening here."

21 They come on board. So now consumers are
22 going into more restaurants and seeing Kik codes. So
23 that's bringing in more consumers. More consumers
24 brings in more restaurants. They'll say, "Hey, look at
25 all of those other restaurants with all those

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1 A I would characterize that period as having
2 increasing conviction that crypto was not only a great
3 option, but would also become the only option.

4 **Q For Kik?**

5 A For Kik.

6 **Q Okay. There were more people -- there were**
7 **more people interested in crypto in 2017 than there**
8 **were --**

9 A Yup.

10 **Q -- right? And there were a lot of new**
11 **digital projects on top of what Kik was exploring,**
12 **right?**

13 A Correct.

14 **Q Okay. Would you say it was easier in 2017**
15 **than in 2012 to raise money for a new token project?**

16 A I would say there was much more interest in
17 cryptocurrencies in 2017 than there were in 2012, and
18 that there were certainly many more people buying
19 cryptocurrencies in 2017 than 2012.

20 **Q That's fine. And in terms of that**
21 **interest, I want to see how you would characterize what**
22 **was driving that interest in new crypto projects in**
23 **2017.**

24 A I'm not sure I understand the question.

25 **Q You said there's new interest in crypto in**

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1 consumers."

2 And you're achieving this network effect
3 and this escape velocity before Facebook just goes to
4 all the restaurants and say, "Hey, yeah, what Kik is
5 doing is really cool. We'll give you a billion dollars
6 if you can do it with us." Crushed.

7 **Q Right. So we talked about your early**
8 **interest in crypto and applying it to Kik. You're in**
9 **the wilderness in 2011 or 2012 with a handful of people**
10 **at a conference, I think you referenced, right?**

11 A Okay. I went to the conference because I
12 was so excited about Bitcoin. It's not the other way
13 around.

14 **Q Oh, no, I got you. Yeah, yeah. I'm trying**
15 **to move the camera forward to how the world changed by**
16 **early 2017.**

17 A Okay.

18 **Q Around the time the Kin project is being**
19 **explored. How would you characterize the change that**
20 **happened from 2011 to 2012 to 2017?**

21 A How would I characterize the change?

22 Which change?

23 **Q Sure. Good question. The change in**
24 **interest in crypto, change in interest in new digital**
25 **assets, how would you characterize...**

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1 **2017, correct?**

2 A Much more people were buying
3 cryptocurrencies in 2017. There was much more interest
4 in the industry in cryptocurrencies in 2017.

5 **Q That's fine. Let me ask it in a better**
6 **way. We see a term in some documents called "crypto**
7 **enthusiasts."**

8 A Okay.

9 **Q Have you ever heard that term?**

10 A I have heard the term.

11 **Q How would you characterize a crypto**
12 **enthusiast at that time?**

13 A Somebody who -- again, the industry was
14 just forming. Many people had many different terms for
15 many different things. I would describe that term as
16 people who were excited about the promise of blockchain
17 technology and what it could do for society. And I
18 would describe it as people who were also buying
19 cryptocurrencies.

20 **Q Okay. And they were buying because they**
21 **thought the future of crypto technology was bright?**

22 A Yeah.

23 **Q And there was more money coming into the**
24 **token market in 2017, would you agree with that?**

25 A If the statement was there was more people

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1 buying cryptocurrencies in 2017 than the amount of
2 money buying cryptocurrencies in 2016 and so on and so
3 forth, yes, I would agree with that.

4 **Q It follows from people being interested?**

5 A Yeah.

6 **Q Was that -- in terms of timing, because we**
7 **talked about how you were thinking about crypto for**
8 **half a decade by that point, did that timing matter for**
9 **you in terms of a market being developed and a lot of**
10 **interest in crypto assets in 2017?**

11 A I think the most important thing it did for
12 me was it allowed me to explain the idea to my
13 investors and my team with appearing less and less
14 crazy over time.

15 **Q Okay. In 2017, it didn't sound entirely**
16 **crazy to pivot to a crypto project?**

17 A Yeah.

18 **Q Like it would have maybe in 2012?**

19 A It didn't pivot to a crypto project. It
20 didn't sound entirely crazy that crypto could be our
21 business model.

22 **Q Okay. That's one thing I want to be --**
23 **this wasn't -- I'm going to refer to it as the Kin**
24 **project if that's okay.**

25 A Yeah.

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1 **Q Just to not get hung up on terms.**

2 A Yeah.

3 **Q But this was a transition of Kik's business**
4 **model, correct?**

5 A This was increasingly going all in on a
6 fundamentally new business model that was powered by
7 crypto.

8 **Q Got it. And "all in" was actually the term**
9 **I was thinking of. It wasn't sort of a side business**
10 **that you'd see would or wouldn't work. It was putting**
11 **the company into this new business model?**

12 A I think it started as a side business,
13 right? Like, with Kik Points, it was a side business.
14 But as we got increasing conviction on the power of
15 this option and increasing conviction on the futility
16 of the other options, it became increasingly clear to
17 me that this was the best option.

18 **Q Okay.**

19 A And so at -- and then at some point, it was
20 all in.

21 **Q We're going to walk chronologically through**
22 **2017 mostly.**

23 A Okay.

24 **Q But I want to first talk about this sort of**
25 **big picture concepts behind the Kin project.**

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1 A Okay.

2 **Q There's a concept in the documents and some**
3 **of the things you said called an ecosystem or the Kin**
4 **ecosystem. Is that a term you're familiar with?**

5 A Yes.

6 **Q Okay. Tell me about the Kin ecosystem.**
7 **How does it -- how does it work or how is**
8 **it envisioned to work?**

9 A The vision of the Kin ecosystem is hundreds
10 or thousands or -- hopefully, we'll see how far this
11 goes -- tens of thousands of digital apps that all use
12 Kin as their native currency.

13 **Q So give me an example of an app and what it**
14 **would do with Kin.**

15 A So Kik, for example, is an app. Anything
16 you wanted to do inside Kik, like the different chats
17 you wanted to get into, different content you wanted to
18 buy, if you wanted to get advice on something, anywhere
19 where you're interacting with other people, Kin would
20 be the currency you would do to facilitate the exchange
21 of that value.

22 **Q And is it solely -- in this vision, is it**
23 **solely digital or does it also interface with the**
24 **physical world?**

25 A I'm not sure where Kin will end up one day

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1 and how much of it will be digital and how much of it
2 will be physical. But certainly, it feels like the
3 best go-to-market for a cryptocurrency from our point
4 of view is to focus on digital worlds.

5 **Q Why is that?**

6 A It's the place where millions of people get
7 together every day to exchange value with each other
8 where they do not have a currency, but where the owner
9 of that digital community could choose to introduce a
10 currency.

11 **Q Got it. And the ecosystem requires there**
12 **to both be apps and producers of services and also**
13 **consumers of those services, correct?**

14 A Correct.

15 **Q Like any market?**

16 A Yeah. Well, maybe just -- why did I pause?
17 The cool thing about Kin is, you know, before -- like,
18 what's the difference between Kin and in-app purchase,
19 right? Why not just in-app purchase, like all of these
20 other iPhone apps do?

21 In Kin, you no longer have to think about
22 what services you can offer as the community owner that
23 people would pay you money for. But now, you can
24 simply set up marketplaces where consumers can exchange
25 value with each other and do so in this cryptocurrency,

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1 and you can take nothing for yourself. Right?

2 Like, hey, you know, you give fitness
3 advice to you. And in return, you gave 50 Kin to do
4 that. And we, Kik, we facilitated it, but we took none
5 of it. But in doing so, you're getting people to use
6 this new cryptocurrency.

7 In doing so, that's creating more demand
8 for this new cryptocurrency. And in doing so, because
9 the supply is fixed, that's making the cryptocurrency
10 more valuable for everyone, including us.

11 **Q Got it. And so the business model for Kik**
12 **is you don't have to get paid for that 50 Kin transfer**
13 **directly, correct?**

14 A Right. Right. Because 50 Kin might be,
15 like, a fraction of a penny.

16 **Q Right.**

17 A Right. We're like, oh, great, we got one
18 percent of a fraction of a penny. You know, good news,
19 we're profitable. Like, that wouldn't work. And that
20 was the problem with digital world is, like, the
21 transaction fees were too high, the friction was too
22 high. And the money, the percentage or the value of
23 those transactions was too low.

24 But now, with cryptocurrency, by getting
25 millions, hundreds of millions -- hopefully, one day,

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1 billions -- of people to use this new cryptocurrency as
2 their primary currency in this digital Kin ecosystem,
3 that would create a ton of demand for the
4 cryptocurrency. Supply would be fixed, and that would
5 make our piece of that cryptocurrency very valuable.

6 **Q Right. And so Kin -- Kik itself doesn't**
7 **have to take a piece of any of the transactions. It**
8 **sits, hopes that there is more demand. And because**
9 **it's, correct me if I'm wrong, sitting on a large pile**
10 **of its own Kin holdings, it can one day hope to make a**
11 **profit from that?**

12 A It can hope to -- like, its Kin, that piece
13 it owns, becomes more and more valuable. It can sell
14 off pieces of that along the way to be revenue for
15 other things it wants to do. And then whatever it has
16 left at the end of the day, once this open source
17 ecosystem is built and runs itself like Bitcoin,
18 whatever is left is the financial reward for the
19 shareholders.

20 **Q And you used the phrase, I think,**
21 **"win-win-win"?**

22 A Yeah. Yeah. Okay.

23 **Q I want to make sure I'm getting all the**
24 **wins.**

25 A Yeah, yeah. Lots of wins.

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1 **Q Okay.**

2 A One of our values is we work hard to find
3 the win-win.

4 **Q Got it.**

5 A And we work very hard to find win-wins.

6 **Q To make sure I understand that in this**
7 **context, is it right that the win-win-win there is that**
8 **Kik's interest as a holder of Kin are aligned with**
9 **people who might hold Kin, that is with fixed supply,**
10 **people benefit when there are more transactions and the**
11 **value goes up?**

12 A I think this is -- there's many wins, and
13 we can go through them one at a time, but this
14 certainly is -- one of the wins is it's a currency.
15 The supply is fixed. Nobody can create more. So not
16 just if Kik has some of that currency, not just if
17 anybody else has some of that currency, but everybody
18 who has that currency, as the economy grows, they all
19 win together.

20 Even, you know, Billy here who just
21 transferred one Kin for fitness advice, even he --
22 like, he has one Kin, there's only going to ever be so
23 much Kin, so he forever has one piece of the whole
24 thing.

25 **Q How do you -- but -- so in terms of**

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1 **building out this project, how do you attract people to**
2 **use this ecosystem? Why should I accept Kin as opposed**
3 **to anything else?**

4 A Why should I accept Kin as who?

5 **Q Let's say I'm a supplier of a digital**
6 **service.**

7 A As a developer?

8 **Q Sure.**

9 A I think there's -- well, maybe let's take
10 Kik, for example. Why would Kik accept Kin? And then
11 we can --

12 **Q Yeah.**

13 A -- generalize it to anybody else. One,
14 it's a fundamentally new business model for Kik.
15 That's part of it. It's a new way to generate revenue.
16 As the asset gets more valuable, you can sell pieces of
17 it to make revenue. But two, you make revenue in a way
18 that is fundamentally aligned with your consumers in a
19 way that advertising is fundamentally not.

20 This was the piece that was very exciting
21 to us and to me, is not only could we make money, but
22 we could make money in a way that was fundamentally
23 aligned with our consumers. In advertising, if anybody
24 says, "Hey, would you take Facebook without ads," every
25 single person would say yes.

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Whereas, with Kin, again, we're not taking any piece. We're not taking transaction fees. We're not even selling things over time. We're just facilitating the exchange of value between consumers. And so it is actually now our goal not only not to extract value, but for -- to enable consumers to find ways to extract value for themselves.

People could only spend a currency that they've earned. And it's only if they spend that the demand is increased. And only if demand has increased that this is a successful business model for us. Ergo, our goal is to now get our consumers paid. That is our fundamental goal now with this business model, is we are only successful to the degree that we can get consumers paid for the value they contribute.

And that was, like, the killer win, is not only is this a new way to make money, a way that the monopolies cannot just take for themselves, but it's also in a way that makes the consumer experience better. We can do a service to direct consumers, not extract something for ourselves.

Q But, again, leave aside Kik, you want third parties to --

A So let's generalize it now.

Q Please.

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capture -- you know, when they grow demand for this currency by having it be the currency inside their app, they need to get the value from that. Otherwise, it's not a viable business model for them.

How could we set that up? How could we set it up? Yes, you could go launch your own cryptocurrency. But if you adopt Kin, you'll actually make just as much money, but you'll be part of a bigger ecosystem. And so that was the Kin Rewards Engine. We said let's set 60 percent of all Kin aside for any developer who helps us come build this economy.

Because as we said, like, when we say to a developer, hey, if you put this in your app, you'll grow a demand like this. That will grow the value of Kin like this. And the Kin Reward Engine will look at that and give you that value back. So there is no financial reason to do your own, and there's also a very practical reason to band together and to compete as one. I would think that was one thing.

But two is we also realized that if Kin were only ever used in Kik, it wouldn't work. Why? As a business model. Why? Because while Kik Point -- while Kin is on the blockchain, and therefore, there could never be more, if only one, quote, unquote, digital country is accepting it, and one day we decide,

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A Is that your question?

Q Yes.

A Okay.

Q Let's do.

A So killer solution for Kik, right? Like, it's a fundamentally new business model for us in a way that fundamentally aligns with what our consumers want. Win-win. Okay? But we realized two other things. The first thing we realized was that if Kik needed this as a billion dollar consumer app, that there would be many other people who would need a similar third option.

It wasn't just us who was struggling, failing to compete with this monopoly called Facebook. It was actually everybody. And so if we needed this business, this new business model for ourselves, there are probably lots of other developers that would need it -- out there that would need it for themselves also.

And we said, well, okay, so probably a lot of other consumer apps would get to the point where their only option is to launch a cryptocurrency as well. Well, that's not going to be good because then consumers will have all these different currencies in all these different apps.

But at the same time, for it to be a business model for themselves, they're going to have to

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hey, Kin is great. There's never going to be more. But now we want a different currency. We're creating Kin 2, the value of Kin would go away.

There would be no more demand, nobody is using it because the one country -- digital country, that was using it is no longer using it. So we realize just from a business model point of view as well, this needed to be an ecosystem where there were many different digital countries all adopting it. So that if any one digital country decided to no longer support it, that it wouldn't matter to the overall ecosystem.

So, again, a win-win where -- another example of a win-win where every other developer -- almost every other developer out there needed this as a business model as well. But by doing that, it made Kin as an ecosystem and as a currency stronger overall.

And then the third piece is it would also let us all compete together as one against these monopolies like Facebook because now we're all trying to drive demand for the same currency. We're all working together to do that through our own independent efforts. And if we -- so we can all take on Facebook as one. And if we do that, we all win as one as well.

Q So all parties in this ecosystem have an interest in -- including Kik, have an interest in

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1 increasing the velocity and the amount of transactions
2 that happen over time?

3 A Correct.

4 Q Okay. And their -- and the goal of the Kin
5 project, correct me if I'm wrong, is to, through
6 network effects, build up such interest in this
7 ecosystem that it's immune from a copy and crush by a
8 larger competitor?

9 A This was the -- I have ten years' almost at
10 this point experience of being copied and crushed, and
11 it's painful. And every time somebody has tried to
12 tell me, "But they won't copy this," every time, you
13 know, for years, "Wow, that's amazing. It's crazy.
14 It's amazing. It's so innovative. They're such a big
15 company. They're not going to copy this," and every
16 time, they do. Every time, they do.

17 And so this time, people -- "Facebook is
18 not going to get into crypto. It's crazy. They don't
19 need to. They have advertising." Blah, blah, blah.
20 "They won't copy this." And I'm like, if there is a
21 big opportunity to build value for consumers, to build
22 value for themselves, it doesn't matter how crazy it
23 is, they're going to try to copy and crush.

24 And so Kin has been set up from day one in
25 anticipation of the moment when Facebook enters the

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1 I call him, I say, "I feel very bad for you. Good
2 luck," click. That's all I can do. All I can do is
3 say, "I feel bad for you. If you need a shoulder to
4 cry on, give me a call. I'm here for you, buddy. But
5 good luck."

6 Q I have to ask: Did you make that call?

7 A I did not make that call.

8 Q Okay. Continue.

9 A I don't think --

10 Q Are you sure?

11 (Discussion off the record.)

12 THE WITNESS: Why is crypto so exciting?
13 Why is Kin so exciting for me? Because for the first
14 time ever, we can work and defend as one. Let me
15 explain. Facebook is going to launch its own
16 cryptocurrency one day. I can almost guarantee it. I
17 would be shocked if they don't launch Face Coin one day
18 or whatever they'd call it.

19 And I bet you it will be set up very
20 similarly to Kin in almost every respect. But this
21 time, what is so interesting about this is we can work
22 together as everybody else, as everybody who's been
23 screwed by Facebook over the years. Because before,
24 it's like there's nothing I can do to help you except
25 say "good luck."

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1 ring to try to copy and crush once again.

2 Q And how has it been set up?

3 A This is the most beautiful thing. At the
4 end of the day, you want the expert level understanding
5 of Kin and crypto. Kin is a new currency. Kin is a
6 new business model. But Kin is a new way to work
7 together. Crypto is a new way to work together. Let
8 me explain.

9 Historically, anything we can build,
10 Facebook can copy and has. Our app platform, our bot
11 platform, our web platform, many of our features inside
12 the app, copy, copy, copy. Snapchat, they built
13 stories. It's a new thing. Now stories are growing
14 faster than the feed in Facebook. Like, it was a
15 fundamentally new innovation that would change the
16 world. Copy, copy, copy.

17 In each of those instances, the company
18 being copied -- Kik, Snapchat, whoever it is -- would
19 have to defend themselves against the monopoly on their
20 own. Okay? Let me -- let me explain. Snapchat.
21 Instagram puts stories into Snapchat. Stories has now
22 wiped out Snapchat. Snapchat is now declining in its
23 users. What do I do? How can I help Evan?

24 I feel bad for Evan Spiegel, the CEO of
25 Snapchat. I feel bad because I've been there myself.

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1 But now it's saying, listen, Facebook is
2 putting their currency into all of their apps. But now
3 we can put our currency into all of our apps, and our
4 combined economy across all of these apps can compete
5 with their economy. And actually, not only compete
6 with it, but potentially beat it. And I think the
7 analogy here is this is the way the Euro competes with
8 the RMB.

9 It's saying -- the RMB is like, listen,
10 that's the currency of that major economy over there.
11 But if we all band together, together, combined, our
12 economy can be even bigger. And so what's so exciting
13 to me that this is not only just a new business model,
14 it's not only fundamentally aligned with our consumers,
15 all those things could be also true for Facebook or
16 anybody else.

17 But who -- which currency wins and which
18 currency loses will be decided by the digital
19 communities that adopt it. And so now, I can say to
20 all of these other digital communities out here, you
21 can make just as much money, build just as great a
22 consumer experience for your users.

23 But by adopting, you make just as much
24 money. The only difference by adopting our
25 cryptocurrency versus their cryptocurrency is that in

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1 our world, we win if you adopt ours. And if you adopt
2 theirs, in their world, they win. And so it's like you
3 could -- like, everything is the same. Same user
4 experience. Same money you're going to make. The only
5 difference is Facebook wins or loses.

6 And all of these guys are going to say,
7 "Right, it's identical, and the only difference is
8 Facebook loses. Yeah, I'm going to take that on if
9 Facebook loses." And so this to me is like -- the
10 thing that's emerging, that people are starting to
11 understand, like, we have all these developers gone
12 live with apps now, is it's in everybody's best
13 interest to work together.

14 Why? Because you own a bunch of Kin. I'm
15 going to work selfishly to get Kin more adopted in Kik,
16 to make my Kin more valuable. But in doing so, I will
17 make everybody else's Kin more valuable as well. And
18 the same is true for them. And so it's the first time
19 forever that all of these consumer communities that
20 have been unfairly copied and crushed for years by
21 Facebook can band together and win and compete as one.

22 BY MR. LEASURE:

23 **Q But based on what you're saying, this**
24 **vision of a group banding together and enough scale to**
25 **compete with Facebook, it seems like you're in a race**

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1 **against time, then, to achieve that scale before F Coin**
2 **or Face Coin is introduced, right?**

3 A It's always -- everything in life is matter
4 of time.

5 **Q No, I understand. But to press on that,**
6 **Kin is introduced in September of 2017 to the broader**
7 **market, correct?**

8 A Correct?

9 **Q And at that time, it was not capable of --**
10 **there wasn't an ecosystem in place to compete against**
11 **F Coin or Facebook Coin, if it came out in**
12 **September 2017, right?**

13 A I think it's a gradient, right? It's like
14 a network effect thing. Like, the more people that
15 join, the more people that will join, the more people
16 that will join, and on and on and on. And this is the
17 exciting thing about, like, cryptocurrency as a
18 business model. It's like the more people that join,
19 the more enticing it is for everybody else to join.

20 And that was one of the exciting things
21 with Kik and Kin, is we're saying, hey, if, you know,
22 Kik -- Kin has a bunch of things, it's a cryptocurrency
23 on the blockchain, and it has one consumer app for sure
24 that is all in on it, and it's a big consumer app
25 called Kik.

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1 **Q Right. And that was one of the marketing**
2 **pitches of the Kin offering, right?**

3 A That's one of the reasons we thought this
4 was a killer business model, not just for us, but for
5 other developers as well.

6 **Q Got it. But the key to defeating a future**
7 **Facebook Coin --**

8 A The evil empire.
9 (Discussion off the record.)

10 BY MR. LEASURE:

11 **Q The key to defeating it, though, I take it,**
12 **from what you're saying, is network effects, building**
13 **up a strong enough community that through self-interest**
14 **would rather not adopt Facebook Coin, but would rather**
15 **keep with Kin?**

16 A Correct.

17 **Q Okay. We're going to walk through time.**
18 **But does that community exist today in your view?**

19 A I think it's a gradient. Like, the
20 community keeps growing and growing and growing. Like,
21 community members who are helping, like, evangelize Kin
22 to their friends, community members who are developers,
23 who are building apps. Like, the community today is
24 bigger than it was yesterday.

25 And I hope that will continue to be true

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1 until this is one of the largest ecosystems and
2 communities in the world.

3 **Q Okay. Comparing it to Kik Points, is one**
4 **of the differences between Kik Points and the Kin**
5 **ecosystem the ability to transfer value out of the**
6 **community, that is to fiat dollars or other cryptos?**

7 A That is a difference and one of the key
8 things that makes Kin a viable business model where Kik
9 Points was not.

10 **Q Right. Both for Kik, I take it.**

11 A For Kik and for every other developer and
12 also for consumers.

13 **Q Right. A developer ultimately might want**
14 **to extract the value it gets and turn it into dollars**
15 **to pay their employees?**

16 A Yes.

17 **Q Okay. How would you characterize the role**
18 **of Kik, the company, in the Kin ecosystem?**

19 A I think what we were to Kin is what Satoshi
20 Nakamoto, whoever he, she, or they are, is to Bitcoin.
21 This was our brainchild. You know, we wrote the first
22 lines of code. We launched the ecosystem. We were
23 sort of the first ones in.

24 **Q Is that it?**

25 A Yeah. I think there's a lot of

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1 similarities between the two.

2 **Q No. Obviously, he or she or they are**
3 **important people in the history of Bitcoin. I'm**
4 **asking: Is that the only role Kik, the company, has in**
5 **the Kin ecosystem?**

6 A The question is what other roles does Kik
7 have, if any, in the ecosystem? Kik also owns Kik, the
8 messenger. So they could say, "Hey, this is going to
9 be our currency in our app. We're sort of" -- "We're
10 going to go first."

11 I think that's, like, a powerful statement.

12 **Q So an early adopter?**

13 A Yeah. That's a good way to put it, I
14 think.

15 **Q Okay. What else?**

16 A I think we were going to help set up the
17 Kin Reward Engine. We set up an independent -- what
18 became an independent foundation to actually oversee
19 the Kin reserves, the 6 trillion Kin. But like all of
20 these things, they have to start somewhere. So we
21 could help -- we could propose a Kin Reward Engine
22 algorithm, which they could choose to fund or not fund.

23 So I think that's one of the things Kik is
24 doing. And just be all-around advocates for the
25 project.

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1 **Q And in terms of being all-around advocates,**
2 **does Kik have a role in -- not only in just being an**
3 **earlier adopter, but in otherwise evangelizing or**
4 **spreading the word about the ecosystem?**

5 A I think on that one, everybody has a role.
6 I think this is, like, one of the powers of
7 cryptocurrencies, is everybody owns some of the
8 currencies. So everybody is evangelizing it.

9 **Q But Kik does that?**

10 A Yeah. Kik does that for sure.

11 **Q Kik has a program to do that?**

12 A Kik creates programs to do that.

13 **Q I'm sorry. Let me ask. Program is a --**

14 A Yeah.

15 **Q It can mean different things. There**
16 **is a -- is there a business unit within Kik, the**
17 **company, whose job is to evangelize or promote the**
18 **ecosystem to third parties?**

19 A There is a division within Kik whose job
20 it is -- there's multiple divisions within Kik to get
21 developers to adopt Kin.

22 **Q I'm literally blanking on the name right**
23 **now. The developer --**

24 A Program.

25 **Q -- program. Is that the name of that**

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1 **group?**

2 A Yeah. That was one of the programs that
3 employees of Kik put together.

4 **Q Got it. Who runs that?**

5 A There's different people involved. But I
6 would say -- so it's sort of like a transition. I
7 think it was first run by a woman by the name of
8 Natasha. She's since gone on a mat leave. So I don't
9 know for sure, like, who would be the official leader
10 of it now. And then we have different squads.

11 One of the squads is building the developer
12 experience. That's run by a lady by the name of
13 Ayelet. One of them is like -- almost like running a
14 consultancy. It's run by a woman by the name of Noa.

15 MR. LEASURE: Okay. We need to take a
16 brief break.

17 MR. MITCHELL: Actually, one more question.
18 Why is Kik doing that?

19 Why is Kik trying to recruit developers?

20 THE WITNESS: I think this is, like, the
21 cool thing about cryptocurrencies, is when everybody
22 has a stake, if they're operating in their own selfish
23 best interest, they're trying to get more people to use
24 the cryptocurrency because that will make their
25 currency that they own more valuable.

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1 But in doing so, they're also benefitting
2 everybody else who owns that currency. So we are
3 operating in our own selfish interest, but everybody
4 else is independently operating in their own selfish
5 interest as well. But in doing so, we are actually all
6 operating in our collective self-interest and best
7 interest. That's the coolest thing about crypto.

8 MR. MITCHELL: This recruiting effort is
9 part of that?

10 THE WITNESS: We're operating in our own
11 selfish best interest because if Kin is the most used
12 cryptocurrency in the world, then our Kin is going to
13 be very valuable.

14 MR. MITCHELL: Thanks.

15 MR. LEASURE: Let's take a video break.

16 THE VIDEOGRAPHER: This ends Disc Number 1.
17 Going off the record.

18 The time on the monitor is 12:01 p.m.

19 (A brief recess was taken.)

20 THE VIDEOGRAPHER: This begins Disc
21 Number 2. We are back on the record.

22 The time on the video monitor is 12:03 p.m.

23 BY MR. LEASURE:

24 **Q We're back on the record after a brief**
25 **break during which, Mr. Livingston, did you have any**

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1 substantive conversations about this investigation with
2 SEC staff?

3 A I did not.

4 Q Okay. We've been talking about the Kin
5 ecosystem. Has Kik ever tried to identify in writing
6 the specific criteria for the Kin ecosystem?

7 A I'm not sure what you mean.

8 Q Sure. Has it ever tried to put down in a
9 document what the Kin ecosystem will look like?

10 A I think we've tried to explain our vision
11 for what we think the Kin ecosystem could look like,
12 what we would want it to look like. I would say we've
13 done that.

14 Q And what document or documents do you have
15 in mind?

16 A Like, I think we, for what, a year and a
17 half now, or however long it's been, have been trying
18 to get the world to see what we see, the opportunity
19 here to make money as developers in a way that's better
20 for consumers, and then all work together and compete
21 against these monopolies as one.

22 And so in doing so, we've done lots of
23 conferences. We wrote a white paper. We created a
24 website. Various things.

25 Q And so those laid out the vision of a Kin

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1 developers?

2 A I'm sure we probably had -- I can't
3 remember anything specifically. I'm trying to think
4 back. I'm sure we had goals, you know. Again, this is
5 not -- Kin doesn't exist in a vacuum. One day, there
6 will be Facebook Coin. And so we want to put as much
7 pressure on ourselves to contribute as much as we can
8 to Kin to get it to the escape velocity before Facebook
9 enters the ring.

10 Q Has there ever been any desired -- I'm
11 talking about desired metrics for the Kin ecosystem in
12 terms of numbers, what it looks like. Has there ever
13 been any such desired metrics shared outside of Kik?

14 A Maybe you have something specifically
15 you're thinking about, but I don't know. I can't think
16 of any specific metrics. Like, we want, you know, 48
17 developers with Kin by this date. Like, we want as
18 many as possible as fast as possible. And so I'm sure
19 we set goals at some point. I'm not sure what those
20 goals were, who they would have been shared with. So I
21 can't recall specifically.

22 Q That's fine. And I have no -- I'm not
23 hiding a specific document I have in mind, just to be
24 clear.

25 Kin project has been public for a year and

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1 ecosystem?

2 A Yeah. I think, you know, there's like --
3 for example, the white paper, right? The white paper
4 was created by different pieces by different people.
5 So it's sort of different people's interpretation of
6 the vision at that time in their area.

7 But, you know, the vision is an evolving
8 thing because this is a brand new sort of technology,
9 business model, economic framework, et cetera.

10 Q Understood. And aside from vision, were
11 there any documents ever created that laid out things
12 like metrics for a Kin ecosystem?

13 A In what way?

14 Q Sure. So, for example, a desired number of
15 suppliers of goods and services, a desired number of
16 buyers or transactions that would happen.

17 A I'm not sure. Maybe there were. I'm just
18 laughing because, like, the answer to those is the
19 desired number is all of the developers. And the
20 desired number of consumers is all of the consumers.
21 And the desired number of transactions is all the
22 transactions. So I'm not sure.

23 Q Okay. But prior to conquering the world,
24 has there ever been a document that lays out by 2019, a
25 goal would be this number of transactions, consumers,

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1 a few months, correct?

2 A It was announced in May of last year, May
3 or June. I think May.

4 Q And then tokens were distributed in
5 September, correct?

6 A Yeah.

7 Q Okay. So in that year and a few months, do
8 you think the goals of the Kin ecosystem within that
9 time frame have been met?

10 A The reason I'm thinking about this is,
11 like, you know -- and your question, like, which goals,
12 what goals? Like, the goal of Kin is to write a new
13 business model for developers to provide a new way to
14 create value for consumers, and for them to share in
15 that value, and to be the most used cryptocurrency on
16 the planet.

17 So in terms of achieving those goals, it's
18 not a binary thing, like check, we did that. Like, I
19 think it's -- like, it's, you know, something we will
20 always be striving for until every developer on the
21 planet is using it. So have we achieved that goal?

22 Is every developer on the planet using Kin
23 as their business model and every consumer on the
24 planet is using it as the medium of exchange in all
25 those apps and it's the most used cryptocurrency in the

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1 world? Like, no, we haven't achieved those goals yet.

2 **Q Understood. How do you feel about the**
3 **progress of the project so far?**

4 A I feel amazing about it.

5 **Q Okay. And what do you think has**
6 **contributed to the success of the project in your view**
7 **today?**

8 A I think the number one thing that is
9 contributing to the success of Kin is the amount of
10 time we have spent, I have spent thinking about this,
11 understanding it, and being able to explain that vision
12 to the rest of the world so that the rest of the world
13 can say, "Holy shit" -- sorry.

14 So the rest of the world can say, you know,
15 "This could work, and I want to be part of this."
16 That's the number one thing. I think a lot of
17 people -- you know, again, let me rewind, right? I've
18 been thinking about this since 2011. There was only
19 one cryptocurrency in 2011. That was Bitcoin.

20 I think Ethereum came out in 2013, 2014. I
21 have been thinking about this longer than most -- like,
22 almost anybody in the world, not just from a
23 hypothetical technology point of view, not from some
24 anarchist point of view, but from a very practical
25 point of view of how this could fundamentally change

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1 the game for developers and consumers. And so I
2 think -- like even today, I talk to people in the
3 industry.

4 I listen to podcasts with other projects.
5 And I say, "Buy how are you going to get people to use
6 it?" And to this day, almost nobody has an answer.
7 And so I think the biggest thing is we explain how
8 we're going to get people to use it. People go, "Wow,
9 I've never actually heard somebody explain how you
10 could get a consumer using a cryptocurrency before."

11 And I think that's been the most valuable
12 thing.

13 **Q Okay. In terms -- do you know how many**
14 **transactions are taking place with Kin today?**

15 A Not off the top of my head.

16 **Q Do you have access to that data?**

17 A It's a bit of a complicated question
18 because today Kin is being used across two blockchains.
19 One is the Ethereum blockchain, and one is a fork of
20 the Stellar blockchain. But, for example, there's a
21 website, blocktivity.info, that looks at transactions.
22 It's looking at transactions not on the Ethereum
23 blockchain, but just on the fork of Stellar blockchain.

24 And I think in there, Kik is the number
25 10th or 9th most used cryptocurrency. Actually, I

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1 think it's -- we're actually used more. Why? Because
2 a lot of the blockchains above us are just doing test
3 transactions back and forth or just doing needless
4 operations. Whereas, Kin is only reporting real
5 user-driven earn and spends, consumer-driven earn and
6 spends.

7 I think if -- for example, if you could
8 separate out all of the people just speculating on
9 cryptocurrencies, not the people actually using it, if
10 you could look at just the number of people that spent
11 it each month, spent it, that Kin would already today
12 be the most used cryptocurrency in the world.

13 **Q Got it. And that was what I was going to**
14 **ask. The data wouldn't distinguish between people**
15 **speculating on a cryptocurrency versus buying and using**
16 **the cryptocurrency?**

17 A On most blockchains, no.

18 **Q Okay. And are you otherwise aware of a**
19 **data source that would break out trading in Kin between**
20 **speculators versus users of the cryptocurrency?**

21 A Am I aware of -- so on the Ethereum
22 blockchain, no. On the Kin blockchain, because it's a
23 test blockchain right now, all of them would be utility
24 usage, I believe.

25 **Q There is a test Kin blockchain right now?**

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1 A Yeah, which is the fork of the Stellar
2 blockchain.

3 **Q Got it. And who is -- it's a test; it's**
4 **not in use right now?**

5 A It's in use. But it's sort of like, you
6 know -- so Kin was launched on the Ethereum blockchain
7 as an ERC-20 token. People could start using it there.
8 People did use it there. But the problem with Ethereum
9 is it has very low scalability and very high fees.

10 So back to our fitness advice. Example, I
11 want to tip you 50 Kin. On Ethereum, I would have to
12 pay a transaction fee of something like 50,000 Kin,
13 maybe more, ballpark. So I'm going to give you 50 Kin,
14 and then pay this 50,000 Kin transaction fee. Oh, and
15 by the way, if more than just a handful, like a couple
16 of thousand people try to do that, the whole thing
17 would grind to a halt.

18 So what we said is, okay, well, that's --
19 you know, that's -- we started there, it worked. But
20 it's not going to get us where we need to go. So what
21 are all of the options? So we looked at the other
22 blockchains. We said Stellar is the best for sort of
23 high scalability. But we said -- but there's still
24 problems with fees on Stellar. It's very complicated
25 for a consumer.

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1 So we took that code. We called what's --
2 forked it. Meaning, we copied and pasted it and
3 basically tweaked it now and changed it. We needed it,
4 so that's now fee-less. And now, for example, all of
5 the apps in the developer program, their Kin in those
6 apps is running on this new blockchain.

7 **Q And just so we're clear, who's the "we" in**
8 **that? You said "we."**

9 A There's a team in Tel Aviv who are
10 employees of Kik Interactive, Inc. --

11 **Q Got it.**

12 A -- who set up that new blockchain.

13 **Q When we were talking about personnel**
14 **earlier as of 2017, in my imagination, Kik itself, the**
15 **company, has somewhat had to change personnel-wise, I**
16 **imagine. Let me put that in a better way.**

17 **Have you guys hired blockchain**
18 **technologists?**

19 A We've hired lots of different people, yeah.

20 **Q Sure.**

21 A Yeah. Some of which are blockchain experts
22 for sure.

23 **Q Yeah.**

24 A But I -- the only reason I'm hesitating,
25 we've hired lots of people. Some of those are

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1 thousands of developers, Ethereum could not handle that
2 and there was no foreseeable path when it would be able
3 to handle that.

4 MR. MITCHELL: And that was the path that
5 sort of you had laid out in the white paper to get lots
6 and lots of people to use it?

7 THE WITNESS: Yeah. We -- I think -- I am
8 not exactly sure what we said in the white paper. I
9 remember the advice I was giving to the person who was
10 writing it, who I can't even remember who that is right
11 now, is like what are all of the options, is the
12 exercise we're going to go through. Like, we can start
13 here. It will work here. But as of right now, we're
14 probably going to have to iterate on it, as any
15 technological project would have to do.

16 MR. MITCHELL: And the "work here," you
17 mean work on the Ethereum blockchain?

18 THE WITNESS: Sorry. When did I say "work
19 here"?

20 MR. MITCHELL: You just said "work here."

21 What did you mean by "work here".

22 THE WITNESS: Kin as a cryptocurrency could
23 work as a currency. It could run as a currency that
24 people were using to -- and it's way similar to Kik
25 Points. It would work on Ethereum.

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1 engineers. Some of those engineers have experience
2 with blockchains, some do not. Like, there's lots --
3 when people say "blockchain," it's, like, a very big
4 word. It means a lot of different things. And a lot
5 of people are claiming they're experts.

6 Like, really, we look for smart people who
7 have a passion about blockchain because, you know,
8 we're doing things that are different than most of the
9 projects.

10 **Q Got it. And I don't want to use a loaded**
11 **term. I take it, though, Kik has hired some people to**
12 **work on blockchain-related tech projects?**

13 A Totally.

14 **Q Okay.**

15 MR. MITCHELL: Earlier, I think you said
16 that people got an ERC-20 token at the beginning, and
17 that it worked on Ethereum, but that wouldn't get you
18 where you wanted to go?

19 THE WITNESS: Uh-huh.

20 MR. MITCHELL: Did I -- do I have that
21 right?

22 THE WITNESS: It validated that we could
23 build a currency that people could use and that
24 currency would run on the blockchain. But if we wanted
25 that currency to be used by millions of people and

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1 MR. MITCHELL: But you would probably have
2 to make changes?

3 THE WITNESS: That -- we wouldn't have to
4 make changes. But if we wanted it to -- for example,
5 like, Ethereum hasn't made changes. There's apps on
6 the Ethereum platform. You hear about CryptoKitties
7 and Augur. Those apps have hundreds of active users.

8 Like, we could all get CryptoKitties today
9 and we would have a significant impact on the number of
10 people using CryptoKitties today.

11 MR. MITCHELL: Just a dozen people?

12 THE WITNESS: Just a dozen people. And so
13 it could work if we just left it on Ethereum. But it
14 would not be able to achieve the vision we had, the
15 very big vision we had for what Kin could become if it
16 were to stay on Ethereum.

17 BY MR. LEASURE:

18 **Q So correct me if I'm wrong. We've been**
19 **doing a high-level discussion of the vision and how the**
20 **ecosystem does or will work. Is it right that a goal**
21 **that Kik shares with its partners in this ecosystem is**
22 **to increase the velocity of transactions using Kin?**

23 A I'm not sure if the goal is velocity of
24 transactions. The goal of Kin -- like, the value of
25 any cryptocurrency is a function -- the value of any

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1 asset is a function of supply and demand. We lock the
 2 supply in cryptocurrencies. That's the fundamental
 3 innovation. So price is a function of demand.
 4 So the Kin that we all hold at the end of
 5 the day is a function of demand. So our goal
 6 economically is to maximize demand. How do we maximize
 7 demand? There are two ways to create demand. There is
 8 people buying it to use it, and people buying to
 9 speculate on it. Almost every other cryptocurrency
 10 project out there is purely focusing on speculation
 11 side. If you look at Ethereum, nobody is using it.
 12 So how could there be real demand? With
 13 Kin, we said we want to be the one project that is
 14 purely focused on driving real demand. Real demand can
 15 only come from two places. It can come from people
 16 buying it to use it. Hey, instead of me doing all this
 17 work to earn some Kin, can I just buy it somewhere and
 18 take a shortcut? Or people who earn it from somebody
 19 who bought it to hire them.
 20 So as a brand, I'm going to want people to
 21 watch my ad. There's millions of people in this Kin
 22 thing, but the only way you can hire them is you pay
 23 them in Kin. How do I get Kin? Oh, you can go buy it
 24 here. So it's only when people are buying Kin for
 25 dollars in order to use it or to hire somebody who

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1 wants to use it that it's creating real sustainable
 2 demand, and therefore, real sustainable increase in the
 3 value of Kin.
 4 **Q So if it was just speculators buying it to**
 5 **hold it, that wouldn't create increased transactions**
 6 **and increased demand?**
 7 A Correct. Maybe -- if only people were
 8 buying it to speculate it, which is the truth for
 9 99 percent of these projects, one day, those projects,
 10 like in the dot-com, from my point of view, will get
 11 wiped out.
 12 **Q At some point, there has to be actual**
 13 **transactions and demand?**
 14 A Even the people in crypto, the large
 15 majority of the people in crypto do not understand
 16 crypto.
 17 **Q And so you said 99 percent of the other**
 18 **projects going on were being bought by speculators; is**
 19 **that correct?**
 20 A I said 99 percent of the other projects are
 21 focused on speculators.
 22 **Q Focused on. I see.**
 23 **From the people selling the tokens, they're**
 24 **focused on identifying speculators?**
 25 A They're focused on hyping their projects;

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1 flashy websites, flashy white papers, lots of Ph.D.s,
 2 things that are very complicated that you can never
 3 understand, but just trust us. Most of the projects,
 4 like, what I listen for, you know -- because I can
 5 listen to podcasts with a lot of the founders of these
 6 other projects.
 7 Yes, I listen for it. But how are you
 8 going to get people to use it? And it seems that
 9 almost all of these projects, nobody talks about that.
 10 **Q Because you assume they don't really have**
 11 **an idea or a plan for the people who use it?**
 12 A They're very smart, nice people, so
 13 maybe I --
 14 **Q You're not giving their name.**
 15 A I'm not sure if they know -- understand
 16 that that's important, but -- like, it might be a case
 17 of sort of, you know, "Yeah, you're right. But right
 18 now, we're focused on the technology. And once we have
 19 the technology, then we'll think about that, but it's
 20 not yet ready."
 21 And this is what, you know, the lead
 22 developer in Bitcoin told me in 2012. This is what
 23 people had told me all the way through. Well, how can
 24 people use it when the transaction times are so long?
 25 How can people use it when the fees are so

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1 high? How can people use it when these are experiences
 2 so poor? Once we solve those things, then people will
 3 use it. But there is another thing you need to solve,
 4 is, like, the logic of Bitcoin is flawed. People are
 5 not going to spend Bitcoin on things that they could
 6 more easily get with dollars.
 7 **Q I understand that. But you were seeing in**
 8 **2017 a lot of projects going on around you, crypto**
 9 **projects being pitched to speculators?**
 10 A I saw a lot of projects showing their
 11 vision for the future of what could be possible,
 12 creating new cryptocurrencies, and selling some of
 13 those cryptocurrencies. And for the most part, I
 14 thought, like, most of them really didn't understand
 15 what was going on.
 16 **Q And you thought those projects, unless**
 17 **there's actual use and demand in future, would go to**
 18 **zero?**
 19 A I thought that if there was no real demand
 20 at some point, then, like, people, as they are today --
 21 like, we're in a, quote, unquote, crypto bear market
 22 today. Like, to me, that makes total sense. In fact,
 23 I think it should be way lower as a cryptocurrency
 24 market today. Ethereum, people are saying that
 25 currency is worth \$20 billion, or whatever it is, and

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1 nobody uses it.

2 **Q Right.**

3 A So what I'm -- like, already today, we're
4 seeing people realize, wait a second, nobody is using
5 these things.

6 **Q Right. And absent -- again, just to finish**
7 **the thought, absent some day where people are using**
8 **these things, these things don't have intrinsic value?**

9 A If people aren't buying them to use them or
10 buying them to hire somebody who wants to use them,
11 then there would be no real demand, and therefore, no
12 real value.

13 **Q Got it. But the speculators out there in**
14 **the crypto market, would you agree that they're betting**
15 **that one day there will be demand for one or more of**
16 **these projects?**

17 A Maybe we should define the term
18 "speculators."

19 **Q Sure.**

20 A There's a lot of people buying
21 cryptocurrencies. And I think for many of them, they
22 don't know -- like, it's unclear what -- I think
23 it's -- their motivation for doing it is they're sort
24 of, you know, looking around and saying, "Well, other
25 people are buying it, and I should by it, too," and not

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1 anything is the world needs this.

2 **Q Okay.**

3 MR. MITCHELL: When you say the world needs
4 it, you mean the world needs something that can compete
5 against these monopolists, duopolists, large companies?

6 THE WITNESS: Yes.

7 BY MR. LEASURE:

8 **Q So there -- you would agree that there were**
9 **people with all sorts of motivations to buy**
10 **cryptocurrencies in 2017, right?**

11 A Yes.

12 **Q And you can't possibly know what every**
13 **single person wanted to do, right?**

14 A Yes.

15 **Q And you would agree that there were some**
16 **people who for better or for worse were speculating on**
17 **the hope that they could make money off of a**
18 **cryptocurrency, some?**

19 A I think there were some people who would
20 buy one cryptocurrency. They would see the value of it
21 go up. They would say, "Wow, that was great. I'm
22 going to buy another cryptocurrency." For sure, those
23 people existed.

24 **Q But you also think there were some people**
25 **who believed in a project like Kin and wanted to be a**

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1 really knowing why.

2 Like I said, for example, I got on stage,
3 that I think one day Bitcoin will go to zero. So I
4 just think that was the industry, is a lot of people
5 were buying it, but they didn't really understand the
6 fundamentals of crypto economics.

7 **Q Do you know whether or not the Kin project**
8 **and the Kin public sale attracted speculators?**

9 A I can't say for sure. Like, again, it
10 depends on your definition of "speculator." There are
11 lots of different people buying lots of different
12 cryptocurrencies for lots of different reasons, you
13 know. Like, when I would go speak about Kin before we
14 sold it, I would get on stage, and people would come up
15 to me and say, "This is what the world has been waiting
16 for. This is the power of blockchain. This is what
17 we've been waiting for. I want to be part of this."

18 And so I think for Kin, you know, for us,
19 this, more than anything, was about solving a major
20 problem that we saw in the world and a problem that we
21 thought was leading down a very dangerous path where a
22 few companies would control the whole digital world.

23 And so I can't speak to why different
24 people bought different cryptocurrencies, including our
25 own. But I would say the feedback I got more than

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1 **part of the ecosystem?**

2 A For sure.

3 **Q And you would distinguish at least those**
4 **sets of people from just speculators; is that right?**

5 A Again, it's sort of -- the word
6 "speculator" is tough, right? Because what is the
7 crypto business model? Like, there's only going to be
8 so much of this currency. If demand for this currency
9 goes up and supply is fixed, then the price will go up.

10 That's true for Kik. That's true for any
11 developer building for Kin today and any developer
12 building for Kin in the future. That's true for Billy,
13 who gets 10 Kin for offering fitness advice. That's
14 true for everybody.

15 So I think, like, you know, it is a
16 currency. It's money. And then the supply is fixed.
17 So as demand grows, if it were to grow, the value
18 increases for everyone.

19 MR. MITCHELL: Did you think -- do you
20 think people bought Kin tokens in September of 2017
21 because they thought the value could grow?

22 THE WITNESS: If people didn't understand
23 that the value could grow, then they would not
24 understand cryptocurrencies and the fundamentals of
25 crypto economics. The fundamental of crypto economics

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1 is supply is fixed. So if demand goes up, then the
 2 price goes up.
 3 Like, would Kik have launched Kin if it
 4 thought the value of its Kin holdings wouldn't
 5 increase? No. That's what made it a viable business
 6 model for us and everybody else. Some people bought it
 7 knowing only that. But I think lots of people bought
 8 it with the idea that this could be a solution to a
 9 major world problem for everybody including themselves.
 10 MR. LEASURE: Let's take a break.
 11 Can we go off the record.
 12 THE VIDEOGRAPHER: Going off the record.
 13 The time is now 12:29 p.m.
 14 (A brief recess was taken.)
 15 THE VIDEOGRAPHER: We are back on the
 16 record. The time on the video monitor is 1:43 p.m.
 17 MR. SCHLEGELMILCH: Welcome back,
 18 Mr. Livingston. Just a reminder, which probably
 19 doesn't come as a surprise, but you're still under
 20 oath, right?
 21 THE WITNESS: Yup.
 22 MR. SCHLEGELMILCH: Great. And did you
 23 have any conversations of substance with the staff,
 24 other than rating the Union Station restaurants, during
 25 the break?

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1 THE WITNESS: I did not.
 2 MR. SCHLEGELMILCH: Great. I just have a
 3 few follow-up questions from our morning session.
 4 I think you said earlier -- and I'm not
 5 trying to misquote you. I'm just trying to sort of
 6 reorient your -- where we are. I think you said
 7 earlier that you didn't have any sort of granular data
 8 about the number of transactions in Kin on sort of a
 9 month-to-month basis; is that fair? Or am I totally
 10 wrong?
 11 THE WITNESS: That's not quite correct.
 12 MR. SCHLEGELMILCH: Okay. Tell me what is
 13 correct.
 14 THE WITNESS: We have -- we know the exact
 15 number of transactions happening on Ethereum. We know
 16 the exact number of transactions happening on the
 17 Stellar blockchain in a realtime fashion. In fact,
 18 anybody can know it. You just look at the blockchain.
 19 MR. SCHLEGELMILCH: Okay.
 20 THE WITNESS: What we do not know is how
 21 many of those transactions are trading versus using.
 22 MR. SCHLEGELMILCH: Okay. Just looking at
 23 sort of one month. Let's look at October 2018, the
 24 month we just finished. Do you have -- I suspect you
 25 don't have the specific number. If you do, I'd love to

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1 hear it. But assuming you don't have the specific
 2 number, can you give me sort of an order of magnitude
 3 of the number of transactions on the Ethereum
 4 blockchain in Kin?
 5 And then I'll ask you the same question
 6 about the Stellar side of it.
 7 THE WITNESS: I don't know on Ethereum.
 8 Most of the apps have transitioned to doing
 9 transactions on the new fork of Stellar blockchain.
 10 MR. SCHLEGELMILCH: Okay.
 11 THE WITNESS: I don't know the number
 12 there. So I'd just be wildly guessing.
 13 MR. SCHLEGELMILCH: Can you give me, like,
 14 an order of magnitude? Like, 10,000, 100,000? I don't
 15 know. Just if you can just give me sort of a ballpark.
 16 THE WITNESS: So what I think -- if I had
 17 to guess, I think there is 10,000 people on the fork of
 18 Stellar blockchain made a transaction in the last
 19 24 hours. So that will you give you sort of a
 20 ballpark. Let's say they made two or three
 21 transactions on average. It would be 20- to 30,000
 22 transactions in the last day on the fork of Stellar
 23 blockchain.
 24 MR. SCHLEGELMILCH: Okay. That's very
 25 helpful. And how has that trended over time? Sort

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1 of -- I assume it's -- well, let me ask you this: Is
 2 it more now than it was sort of on the day after the
 3 TDE, the token distribution event?
 4 THE WITNESS: Yes. So just the
 5 technicalities of it, like, there was no fork of
 6 Stellar the day after the TDE event.
 7 MR. SCHLEGELMILCH: Okay.
 8 THE WITNESS: So the number of transactions
 9 on that blockchain, which is the only number I know, or
 10 even roughly know, or could speculate on, guess on, is,
 11 you know, that obviously started at zero.
 12 MR. SCHLEGELMILCH: Okay. And when did --
 13 when was the fork of Stellar?
 14 THE WITNESS: I think we started putting
 15 apps on that July this year, I would say.
 16 MR. SCHLEGELMILCH: Of 2018?
 17 THE WITNESS: Yes.
 18 MR. SCHLEGELMILCH: Okay. And so I just
 19 want to make sure I understand your testimony.
 20 You don't know and you don't even know sort
 21 of an order of magnitude for the ERC-20 token?
 22 THE WITNESS: Correct.
 23 MR. SCHLEGELMILCH: Okay. And is that --
 24 do you know the number of transactions in the ERC-20 --
 25 and I think I know your answer, I just want to put it

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1 on the record -- the number of transactions on the
2 ERC-20 token sort of the day after the token
3 distribution event?
4 THE WITNESS: Not off the top of my head.
5 MR. SCHLEGELMILCH: Is that knowable from
6 Kik's perspective?
7 THE WITNESS: My guess is it would be
8 knowable and would actually be public record.
9 MR. SCHLEGELMILCH: Okay. Because the
10 blockchain is public?
11 THE WITNESS: Exactly.
12 MR. SCHLEGELMILCH: Okay. But from Kik's
13 perspective, is that something that -- is that a data
14 point that Kik track, that Kik would know?
15 THE WITNESS: Certainly, there are
16 definitely people who would track that. But I wasn't
17 one of them.
18 MR. SCHLEGELMILCH: Okay. And as I
19 understand, the reason for the move from the ERC-20
20 token to the Stellar fork token was because -- and,
21 again, if I get this wrong, correct me -- is because
22 the time it took to complete a transaction on the
23 ERC-20 token was higher than optimal. I think it's 25
24 or 30 seconds a transaction.
25 THE WITNESS: It was a number of reasons

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1 point that I was actually driving at, so thank you.
2 How did that subsidizing work?
3 THE WITNESS: We -- my understanding -- and
4 I don't have a perfect understanding of this. I wasn't
5 the guy that wrote the software -- is that every, in
6 this case, Kik user, for example, would -- they would
7 get created an Ethereum wallet. And we would put some
8 Ether in their wallet that would fund their
9 transactions of Kin.
10 MR. SCHLEGELMILCH: Okay. So the wallet
11 would contain both Kin and Ether, the latter going to
12 cover the transaction cost in the former?
13 THE WITNESS: Exactly. That's my
14 understanding.
15 MR. SCHLEGELMILCH: Okay. Do you have an
16 understanding of how much Ether was put into each
17 wallet to cover those transaction costs?
18 THE WITNESS: I don't know exactly. But if
19 I had to guess, between 5 and \$10 worth.
20 MR. SCHLEGELMILCH: Okay. And was that
21 replenished over time? Like, if somebody engaged in a
22 lot of transactions, would they -- would Kik continue
23 to contribute Ether to sort of fill it back up again?
24 THE WITNESS: I don't know for sure. But
25 my understanding is yes. We would monitor it and

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1 why.
2 MR. SCHLEGELMILCH: Sure. I just want to
3 mark -- actually walk through the reasons.
4 THE WITNESS: Okay.
5 MR. SCHLEGELMILCH: So one was the
6 transaction time. Is that one --
7 THE WITNESS: One was transaction time.
8 But actually, that was probably the smallest of the
9 reasons.
10 MR. SCHLEGELMILCH: Okay.
11 THE WITNESS: Other reasons were
12 scalability. And this sort of ties into transaction
13 time. So if more than a thousand or a few thousand
14 people wanted to do transactions, the whole network
15 would grind to a halt and your transactions would never
16 go through.
17 MR. SCHLEGELMILCH: Okay.
18 THE WITNESS: And the third was because the
19 cost to do a transaction was -- made it very
20 complicated for us from a technical point of view. We
21 were subsidizing the cost of those transactions so that
22 that user wouldn't see it, so that it would work from a
23 consumer point of view. But that was a very expensive
24 thing to do.
25 MR. SCHLEGELMILCH: And it's that last

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1 refill it as necessary.
2 MR. SCHLEGELMILCH: Okay.
3 MR. MITCHELL: And that Ether came from
4 Kik, the company?
5 THE WITNESS: Correct.
6 MR. SCHLEGELMILCH: Thank you.
7 That's what I had.
8 MR. MITCHELL: Can I ask you just about the
9 Stellar blockchain, the fork of the Stellar blockchain.
10 On this new -- this fork -- does the fork of a Stellar
11 block -- does the forked Stellar blockchain have a
12 different name or do you just call it the forked
13 Stellar blockchain?
14 THE WITNESS: We now call it internally the
15 Kin blockchain.
16 MR. MITCHELL: Okay. So on the Kin
17 blockchain, are there tokens other than Kin? Are there
18 Stellar tokens or other tokens that people have that --
19 THE WITNESS: It's actually a complicated
20 question.
21 MR. MITCHELL: Sure.
22 THE WITNESS: But like the -- generally,
23 no. Like, there is -- there is, like, the tokens,
24 which is the currency. But then there's also the
25 tokens which pay for the transactions. So, for

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1 example, when we first forked Stellar, that token was
 2 -- you know, XLM is what's built in Stellar, the
 3 Stellar token.
 4 We sort of created another version of that,
 5 and then just gave a lot of that to everyone, just so
 6 the technology would work. We're now collapsing those
 7 two. So it's just Kin for everything on the Kin
 8 blockchain.
 9 MR. MITCHELL: Okay. But initially, there
 10 were two types of tokens; one of which was sort of a
 11 forked version of XLM?
 12 THE WITNESS: This is where it's going to
 13 get a little complicated.
 14 MR. MITCHELL: Yeah. Sure.
 15 THE WITNESS: It's two blockchains.
 16 MR. MITCHELL: Yup.
 17 THE WITNESS: On the Ethereum blockchain,
 18 there's two tokens. From our purposes, there's Ether,
 19 used to pay for the transactions. And then there's
 20 Kin, the currency, used in these apps. On the Stellar
 21 blockchain initially, it was similar. There is
 22 Stellar, or a clone of Stellar, you know. We just
 23 create a bunch of Stellar, effectively our own Stellar.
 24 Stellar II, let's call it. And then Kin as well.
 25 So initially, use Stellar II, which we can

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1 make as much as we want to pay for the transactions, to
 2 make the whole thing work. We're now moving to a model
 3 where it's just all Kin, but we can do it in a way
 4 that's still fee-less for the consumer.
 5 MR. MITCHELL: Sounds great. When the
 6 Bitcoin blockchain forked, people -- if you had a bit
 7 chain -- Bitcoin before that, afterwards, you had a
 8 Bitcoin and Bitcoin cash, I think?
 9 THE WITNESS: Yeah.
 10 MR. MITCHELL: Did that happen when you
 11 forked Stellar?
 12 THE WITNESS: No. And, like, "forked" can
 13 mean different things in different contexts.
 14 MR. MITCHELL: Okay.
 15 THE WITNESS: We didn't fork the currency;
 16 we forked the technology.
 17 MR. MITCHELL: Okay. So then at the point
 18 in which -- sorry. And Kik did this?
 19 THE WITNESS: The employees of Kik
 20 Interactive did this, yes.
 21 MR. MITCHELL: Did this to create -- sort
 22 of basically create a new blockchain?
 23 THE WITNESS: Correct.
 24 MR. MITCHELL: All right. But it's just
 25 very fundamentally different than how the Bitcoin

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1 blockchain forked with the creation of Bitcoin cash?
 2 THE WITNESS: Bitcoin forked both the
 3 technology and the currency. Whereas, we only forked
 4 the technology.
 5 MR. MITCHELL: Okay. And so when the new
 6 blockchain was created, Kik could create as much of
 7 this -- whatever, new Stellar, or new -- the coin used
 8 for expenses as much as it wanted?
 9 THE WITNESS: It could create as much
 10 Stellar as it wanted because that's -- it's sort of
 11 like Ethereum. If you were to fork Ethereum, you could
 12 create as much as Ether as you want for yourself, and
 13 that's what's used to pay for running this smart
 14 contract. That's just how the system is set up.
 15 It's sort of similar with Stellar. So when
 16 we first forked it, we create as much of this new
 17 Stellar, our Stellar, as we want to then pay for the
 18 transactions because that's just how the system is set
 19 up.
 20 MR. MITCHELL: Got it. But then at the
 21 same time, did the engineers create 10 trillion sort of
 22 new coin -- two new tokens that are the Kin tokens on
 23 that blockchain?
 24 THE WITNESS: They -- so as we were moving
 25 apps to this new blockchain, we created test Kin to get

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1 them up and running, to make sure it all worked. We
 2 are now working through the options for how to migrate
 3 from the Ethereum Kin to the new Kin blockchain Kin in
 4 all 10 trillion.
 5 MR. MITCHELL: Because there are two
 6 different things?
 7 THE WITNESS: Yeah. They're two different
 8 infrastructures.
 9 MR. MITCHELL: But the tokens aren't -- you
 10 can't -- someone with a token on the Ethereum
 11 blockchain can't just today just move their token to
 12 the new blockchain, can they?
 13 THE WITNESS: Not automatically, no.
 14 MR. MITCHELL: They'd have to exchange?
 15 THE WITNESS: Correct.
 16 MR. MITCHELL: And then -- so is there a
 17 limit today to the number of Kin tokens that this --
 18 let me start over.
 19 Today, is there a limit to a number of the
 20 tokens that are called Kin but are on the new Stellar
 21 blockchain?
 22 THE WITNESS: There is a limit, yes.
 23 MR. MITCHELL: What is that?
 24 THE WITNESS: But that's -- I think we
 25 created something like 1 trillion as a starting point.

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1 But while we get it set up, you know, it's just sort of
 2 an arbitrary number.
 3 MR. SCHLEGELMILCH: Ultimately, will there
 4 be sort of a one-for-one transfer from -- let me step
 5 back. Let me step back and actually ask you a question
 6 that hopefully makes more sense.
 7 As a baseline, there are 10 trillion Kin.
 8 The Foundation has some, Kik Interactive has some, and
 9 other people have some. But it all adds up to a
 10 hundred trillion -- or to 10 trillion, and there's a
 11 finite number.
 12 THE WITNESS: Correct.
 13 MR. SCHLEGELMILCH: Will there be
 14 10 trillion of, we'll call, new Kin on the Stellar
 15 blockchain, so it will be like a one-for-one?
 16 THE WITNESS: Correct.
 17 MR. MITCHELL: That's the plan?
 18 THE WITNESS: That -- we are working
 19 through all the options to achieve that.
 20 MR. MITCHELL: But as of right now, do you
 21 know how you're going -- what steps you're going to
 22 take to make that happen?
 23 THE WITNESS: We have different options
 24 we're looking at, but nothing is set in stone yet.
 25 MR. MITCHELL: And who is looking at that?

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1 THE WITNESS: Different employees.
 2 MR. MITCHELL: Of Kik?
 3 THE WITNESS: Of Kik.
 4 MR. MITCHELL: Anybody else?
 5 THE WITNESS: I think, like, the whole
 6 industry is trying to figure this out at large, which
 7 is because any currency on Ethereum, including Ether
 8 itself, is not scalable.
 9 MR. MITCHELL: So do you think that other
 10 people are thinking about this technological problem?
 11 THE WITNESS: Yes, many other people.
 12 MR. MITCHELL: But are those people
 13 actually working with Kik employees on how to create
 14 this new blockchain?
 15 THE WITNESS: So definitely Kik employees
 16 are sharing notes with other teams. For example, Kik
 17 employees have met with employees of Stellar to talk
 18 about the different ways to do this for sure, yeah.
 19 MR. MITCHELL: Okay. Anybody else?
 20 THE WITNESS: I'm not sure. Like, I'm
 21 not -- it's a little -- it's in the day-to-day. I'm
 22 not sure.
 23 MR. MITCHELL: And the tokens that are --
 24 the Kin tokens on this Kin blockchain, how do people
 25 get those?

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1 THE WITNESS: Today, we are giving them to
 2 developers to give to their users in the form of grants
 3 that are approved and given out by the Kin Foundation.
 4 But over time, some of the options we're working out
 5 is, you know, exchanges and different ways to transfer
 6 them over.
 7 MR. MITCHELL: I'm sorry. What do you mean
 8 by decided by the Kin Foundation?
 9 THE WITNESS: So the Kin Foundation has
 10 6 trillion Kin. Its job with that 6 trillion Kin is to
 11 maximize the rate of growth of the Kin ecosystem and
 12 the Kin economy. So as part of that, you know, that's
 13 why we set aside so much Kin at the beginning as part
 14 of the vision as an incentive for developers to not
 15 only jump start the economies with their consumers in
 16 their apps, but also as their own financial reward and
 17 business model for building with Kin.
 18 MR. MITCHELL: So the Foundation owns the
 19 Kin -- the new Kin that are on the Kin blockchain?
 20 THE WITNESS: I guess like -- the question
 21 is, like, what's the definition of "owns" because the
 22 Kin blockchain is new and is being set up. Kik
 23 Interactive employees created those Kin tokens. But
 24 one day, we need, you know, there to only be
 25 10 trillion Kin. And so we're giving out that Kin as

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1 being approved by the Foundation.
 2 MR. MITCHELL: Each transaction is
 3 approved?
 4 THE WITNESS: Each grant to developers,
 5 both for themselves and for their users, and then they
 6 give it out to their users.
 7 MR. MITCHELL: So you said the Foundation
 8 is approving -- Kik is giving new Kin tokens to
 9 developers; is that right?
 10 THE WITNESS: It's a logistical thing. The
 11 Kin Foundation wants developers to adopt Kin. It has
 12 6 trillion Kin to do that. And so what Kik is doing is
 13 finding partners, saying, "Hey, this partner wants to
 14 develop with Kin, Kin Foundation. To do it, we think
 15 we should offer them this. Do you want to do that or
 16 not?"
 17 MR. MITCHELL: Okay. And then -- it sounds
 18 great. And then you said something about also then
 19 those developers are giving out tokens to their users?
 20 THE WITNESS: Yup.
 21 MR. MITCHELL: Is the Kin Foundation
 22 approving that transaction as well?
 23 THE WITNESS: The Kin Foundation is
 24 approving the initial grant.
 25 MR. MITCHELL: To the developer?

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1 THE WITNESS: To the developer.
 2 MR. MITCHELL: And who is doing that?
 3 THE WITNESS: Who is doing which?
 4 MR. MITCHELL: Approving.
 5 THE WITNESS: Myself and William.
 6 MR. MITCHELL: William Mougayar?
 7 THE WITNESS: Yup.
 8 MR. MITCHELL: Okay. And you're having,
 9 like, meetings?
 10 THE WITNESS: Yeah. We have formal board
 11 meetings to approve those things.
 12 MR. MITCHELL: Okay. And has either of you
 13 ever voted against a grant?
 14 THE WITNESS: We've sent the team from Kik
 15 back to the drawing board. We say, we don't think this
 16 makes sense. What about this? What about that? Go
 17 reevaluate it. And they'll go reevaluate it and come
 18 back.
 19 MR. MITCHELL: And are there minutes to
 20 those meetings?
 21 THE WITNESS: I believe so. I'm not sure
 22 of the detail of those minutes. But I believe there
 23 are minutes, yeah.
 24 MR. MITCHELL: And you actually vote?
 25 THE WITNESS: We approve, so yeah. I and

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1 I, yeah. William and I both have to -- if that's a
 2 vote, then yes.
 3 MR. MITCHELL: Great.
 4 BY MR. LEASURE:
 5 **Q Okay. I'm going to go back in time.**
 6 A Okay.
 7 **Q And proceed chronologically through the --**
 8 **thinking about the Kik Kin project and how it developed**
 9 **over time.**
 10 A Okay.
 11 **Q I think you said that you were thinking on**
 12 **crypto --**
 13 MR. MITCHELL: I'm sorry. Can I ask one
 14 more question on that?
 15 When that -- when -- you said the
 16 Foundation gives its approval. The developer gets new
 17 Kin tokens on the new blockchain?
 18 THE WITNESS: Correct.
 19 MR. MITCHELL: Does the Foundation give up
 20 anything?
 21 THE WITNESS: It will. It hasn't yet.
 22 MR. MITCHELL: What do you mean?
 23 THE WITNESS: Well, right now, the two
 24 blockchains are running in parallel. This blockchain
 25 over here, the Kin blockchain, it's an arbitrary amount

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1 of Kin. Then when we connect the two blockchains
 2 together, there will only be 10 trillion Kin. So
 3 while -- like, they're not connected yet.
 4 When they are, there will only 10 trillion
 5 Kin. That's why we're approving it today because we
 6 know that as this new blockchain comes online, there
 7 will only ever be 10 trillion Kin.
 8 MR. MITCHELL: And so the Foundation will
 9 eventually have to give up some of its Kin on the
 10 Ethereum blockchain in order -- in an equal amount to
 11 whatever has just been given out?
 12 THE WITNESS: Correct.
 13 MR. MITCHELL: And how does it give
 14 that up?
 15 THE WITNESS: That sort of depends on the
 16 migration process. Like, a similar thing is how will
 17 anybody who owns Kin on Ethereum, like, prove that they
 18 gave that up, and then it gets unlocked on the new
 19 blockchain. So it will be sort of -- however we decide
 20 that will work will be a similar way for the Kin
 21 Foundation.
 22 MR. MITCHELL: Leaving aside the actual
 23 transaction, leaving aside the technical way, someone
 24 will have to sort of burn their token on the Ethereum
 25 blockchain in order to get a token on the new

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1 blockchain?
 2 THE WITNESS: Yeah, that's one option.
 3 Sometimes options are just locking it and unlocking it
 4 and allowing you to actually go back if you want.
 5 There is much of different ways to do it.
 6 MR. MITCHELL: No one has made a decision
 7 yet about how that's going to happen?
 8 THE WITNESS: Not to my knowledge.
 9 MR. MITCHELL: Why not just pick one and
 10 move on?
 11 THE WITNESS: It's a complicated thing from
 12 a technology, security, and compliance point of view in
 13 terms of money transmission. There's a lot of
 14 different ways to do it. Lots of projects have done.
 15 We want to make sure we do it in the right way.
 16 MR. MITCHELL: I guess what's the downside
 17 of doing it the wrong way, as long as people give up
 18 one thing and get the other?
 19 THE WITNESS: Lots of things could go
 20 wrong, depending on how you set it up.
 21 MR. MITCHELL: Things that are important to
 22 the project, though, I mean, that could affect the
 23 whole project?
 24 THE WITNESS: Anything that could go wrong
 25 is probably correctable. But like everything, you

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1 know, you don't want to make mistakes. You want to do
2 it the right way. And we look at all the options, and
3 we take our time and make sure it's the best option.
4 And then we move forward.

5 MR. MITCHELL: Okay. Thanks.

6 BY MR. LEASURE:

7 **Q You talked to -- at some point in 2016, you**
8 **talked to Fred Wilson about the possibility of Kik**
9 **moving into the crypto space; is that right?**

10 A Correct.

11 **Q Okay. So after that, rolling the clock**
12 **forward, how was the idea of a potential coin project**
13 **surfaced within Kik, either to the board or to the**
14 **employees? Can you walk me through that?**

15 A Yeah. Very carefully.

16 **Q Why is that, let me ask you.**

17 A Why is that? That's a good question. I
18 think to understand the answer to that question, you
19 have to look at the context of what was going on at Kik
20 at the time, right? So Kik comes out of nowhere in
21 2010, lights the world on fire. Gets unfairly
22 handicapped by something outside of its control and
23 ultimately something I believe was totally wrong.

24 Fights its way back into the race and
25 achieves a billion dollar valuation. But from there,

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1 of bringing this idea forward of, like, "Hey, guys,
2 crazy idea. What if we created a new currency and a
3 new economy, and that was a new business model for us?"

4 There was a very high risk that it would
5 eliminate what little credibility I had left. So when
6 introducing this idea to the team, I had to be very
7 careful about how I did that. Because on the inside,
8 personally, I was very excited because what became
9 increasingly clear to me was that this was going to be
10 our only option.

11 And that excited me because I knew we were
12 going to go for it. But I have been doing this a long
13 time by now. And I didn't want to let my excitement
14 jeopardize our ability to achieve that vision. And so
15 despite my own personal amazing excitement about this
16 opportunity, I had to be very careful about how I
17 rolled it out internally.

18 **Q How did you manage that? What did you do?**

19 A I had to rely on the credibility of others.

20 **Q Who?**

21 A The first person was Fred Wilson.

22 **Q What did he think?**

23 A I think his words were something like -- so
24 we had this breakfast in New York. I think that's --
25 from my recollection, that's the first time I ever told

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1 starts to struggle and starts to lose users, isn't
2 making money. And it created an environment within the
3 company, between employees of the company, but also
4 between the company and the board, and the company and
5 investors of -- what's the word -- high anxiety.

6 **Q Okay.**

7 A Okay? Like, the more -- the more you look
8 at the situation you're in, things aren't getting
9 better, they're getting worse. So you try harder, and
10 they just keep getting worse. Try harder, and they
11 just keep getting worse. It creates a very toxic
12 environment internally at any organization.

13 And so at this point, I would say I had low
14 credibility among the leadership team and among the
15 investors. Why? Because I had put out different
16 things I think we should try. They don't work. Put
17 out different things we should try. They don't work.

18 My original leadership team, we largely and
19 almost completely got rid of, brought in a new
20 leadership team. The experts who knew what they were
21 doing, had been there before, they tried their best.
22 In some cases, they made things a little bit better.
23 But in many cases, things got worse.

24 And it was a very tough time in the company
25 and a tough time for me personally. And so this idea

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1 him about this. From my recollection, that's the first
2 time I ever told any of the investors about this. And
3 we talked about it, we talked about it.

4 I explained Kik Points. I explained how
5 this could work. I explained Bitcoin. I explained all
6 these different things. And he said, "Ted, that's sort
7 of crazy, but it just might work." That became a very
8 important tool for me when I went back to my leadership
9 team and started explaining this idea to them that,
10 like, "Listen, I know this is crazy. I know we're
11 struggling here. I know your confidence in me as a
12 leader right now, because we are failing, is low. But
13 it's not just me who thinks this is a good idea. Fred
14 says it's a good idea, too. And he is one of the
15 smartest guys in the industry. He's very into crypto.
16 So don't hear it from me; hear it from him."

17 **Q Okay. What happens next?**

18 A I think the initial reaction from the
19 leader team, despite having that, was one of
20 skepticism, is what I recall. It took a while to
21 convince people that this wasn't yet another crazy
22 idea, but actually could work.

23 Again, today, it's still a crazy idea, but
24 at least people understand cryptocurrencies today.
25 This was back in mid-2016. Like, you know, nobody had

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1 even really heard of cryptocurrencies yet, Bitcoin, et
2 cetera. So it took a lot of work to slowly but surely
3 convince person by person on the leadership team, and
4 then investor by investor, shareholders of the company,
5 that this was a good idea.

6 And all along the way, my strategy in
7 hindsight was to rely on the credibility of others to
8 show that this was a good idea.

9 **Q And this sort of person by person,**
10 **constituent by constituent outreach, was that going on**
11 **while Credit Suisse was doing its thing on behalf of**
12 **Kik around that time?**

13 A I believe so, yes.

14 **Q Okay. So while this is going on, this sort**
15 **of germinating, if I can call it that, of a crypto**
16 **idea, there's also a process looking for financing for**
17 **Kik and Credit Suisse?**

18 A Yeah. And I would say as it became
19 increasingly clear to me and the leadership team and
20 the investors that the Credit Suisse process was not
21 going to end in a sale, gave me increasing conviction
22 and motivation to convince everybody that crypto was
23 going to be a compelling option.

24 **Q Because the alternative, correct me if I'm**
25 **wrong, to a sale or other financing by Credit Suisse or**

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1 **crypto is cuts and the reduction of Kik's footprint; is**
2 **that fair?**

3 A Yeah, I think that's fair.

4 **Q Okay. Let me show you a document that I**
5 **think might relate to this time period. It's a long**
6 **one. This is a document previously marked as**
7 **Exhibit 12B. Take a look and let me know when you're**
8 **ready. You'll get used to this routine.**

9 **Exhibit 12B is a multi-page document. It's**
10 **an e-mail with an attachment beginning with the Bates**
11 **stamp Kik Foundation Cap 005705. It's an e-mail from**
12 **Ted Livingston to Kik board dated January 27th, 2017.**
13 **You're welcome to read through the whole thing.**

14 A Okay.

15 **Q But it's a long one. And I'm going to**
16 **point you to specific things in this document.**

17 A Okay.

18 **Q My first question is going to be: What is**
19 **this document?**

20 A It appears to be an e-mail from me to the
21 board. Or do you mean the document attached at the
22 back?

23 **Q Sure. Both. So it's an e-mail from you to**
24 **the board.**

25 A Yeah.

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1 **Q And what's the attachment?**

2 A I think it's a copy of the upcoming board
3 deck.

4 **Q Okay.**

5 A An upcoming deck for a board meeting, it
6 looks like.

7 **Q Got it. And in terms of process, to**
8 **communicate to the board for upcoming board meetings,**
9 **it was typical to have a board deck or slides sent to**
10 **them in advance?**

11 A Yes.

12 **Q And typically, how were those slides**
13 **written?**

14 A What do you mean?

15 **Q Who wrote this -- who would typically write**
16 **board's decks?**

17 A It's a team effort. Depending on the
18 topic, different people write it.

19 **Q You'd want to look at them before it was**
20 **sent?**

21 A Yeah. I would typically review it before
22 it would go to the board.

23 **Q Sometimes, not in this document, we see a**
24 **deck that has, like, notes or --**

25 A Yeah.

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1 **Q Underneath the slide, there will be, like,**
2 **talking points or notes. Is that -- was that sometimes**
3 **done with board decks where you would provide notes?**

4 A I think people sometimes, when they're
5 writing their slides, would add notes, like, how they
6 would explain the slide. But many times, I wouldn't
7 read those. I'd sort of have an idea of the -- you
8 know, what I wanted to say to each slide. So sometimes
9 I would; sometimes I wouldn't.

10 **Q Got it. Okay. And is it -- before you --**
11 **was it typical for you to send the board decks?**

12 A Yes.

13 **Q Okay. And you -- would you approve them**
14 **before they were sent?**

15 A I would -- as far as I can recall, it's,
16 like, at the end, it would get sent to me. I would
17 take a last look, and then it would get sent to the
18 board.

19 **Q Got it. But if you wanted changes, you can**
20 **say, "Guys, this doesn't work for me"?**

21 A Correct.

22 **Q Okay. And the goal was to facilitate the**
23 **board meeting, to have a conversation, right?**

24 A Correct.

25 **Q So I take it the goal was to put in things**

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1 that you thought were important and accurate for the
 2 board to consider?
 3 A Correct.
 4 Q You wouldn't put in -- you wouldn't put in
 5 something that was, you know, false or not what you
 6 really thought?
 7 A Well, I think it's definitely possible that
 8 there could be things in here that I didn't really
 9 think and maybe didn't catch them. Again, I'm not
 10 creating these slides.
 11 Q Oh, sure.
 12 A But, like, for the most part, like, this is
 13 a deck for the board to facilitate a discussion of
 14 which I am leading.
 15 Q Yeah. Right. Okay. So you might miss
 16 something, but that doesn't mean --
 17 A Correct.
 18 Q Okay. And certainly, you intended to
 19 facilitate a transparent discussion with the board?
 20 A Correct.
 21 Q Got it. Okay. The e-mail address, is
 22 that -- this is sent to board@kik.com. That's all the
 23 board members?
 24 A Correct.
 25 Q Including you?

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1 A I believe so, yes. I think I'm on that.
 2 (Simultaneous speakers.)
 3 Q Who is Derek Lebert, L-e-b-e-r-t?
 4 A I believe his title was controller for Kik.
 5 He's a Kik employee. Yeah.
 6 Q Okay. Looking at just the e-mail, I
 7 thought this might in context be around the time where
 8 the Credit Suisse process was in gear --
 9 A Yep.
 10 Q -- and maybe the consideration of crypto
 11 was being discussed. Does that roughly fall within
 12 that time frame?
 13 A The Credit Suisse process, yes, I think was
 14 in that time frame. I think crypto was just -- I was
 15 just starting to talk to people about it on the team
 16 around this time as well.
 17 Q Okay. So in your -- excuse me -- in your
 18 e-mail, you wrote, "With no bids coming out of the
 19 process and a continued decline of our metrics, we are
 20 in a precarious position, to say the least."
 21 I think that's what we've already talked
 22 about this morning.
 23 A Uh-huh.
 24 Q To break that out, the process is the
 25 Credit Suisse process; is that right?

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1 A Correct.
 2 Q And no bids to acquire Kik came out of
 3 that?
 4 A Correct.
 5 Q "The continued decline in our metrics."
 6 What were the major ones in terms of
 7 metrics?
 8 A Monthly active users would be the main one.
 9 Q I see references to MAU and DAU --
 10 A Uh-huh.
 11 Q -- which is daily average users?
 12 A Daily active users, yeah.
 13 Q Active users. Sorry.
 14 A Uh-huh.
 15 Q And so those are the major ones that you
 16 tracked in terms of the growth of the platform?
 17 A Correct.
 18 Q Okay. I think we already talked about this
 19 today, but you would agree with, I guess, what you
 20 wrote here in January of 2017, that Kik was in a
 21 precarious position at that point?
 22 A Yes.
 23 Q Okay. You said -- the next sentence says,
 24 "Therefore, I would like to spend the majority of the
 25 meeting discussing the options to extend our runway."

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1 At a high level, other than crypto, what
 2 were the options that were available to Kik?
 3 A You know, you need more money. Runway is a
 4 function of how much you -- how much money you have,
 5 how much money you're making or raising, and how much
 6 money you're spending. So the options are make money,
 7 raise money, or spend less.
 8 Q Got it. And all of those were on the
 9 table?
 10 A Correct.
 11 Q Okay. You also wrote, "I will also have
 12 Credit Suisse come in to discuss their view of the
 13 process." Did that happen?
 14 A I can't say for sure. But my -- I would
 15 think, yes, if I said that. I can't recall exactly,
 16 but I would assume so.
 17 Q More importantly, what was Credit Suisse's
 18 view? Do you remember if they provided you with one?
 19 A I think their view was nobody wanted to
 20 buy us.
 21 Q And did they give you options?
 22 A Their job was to -- they were hired to look
 23 at all the options for selling the company. So that's
 24 what they were focused on.
 25 Q Okay. They weren't, like, management

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1 consulting?

2 A No.

3 **Q Okay. Actually, I think we've already**
4 **covered the things I wanted to ask you about in this**
5 **document. So if you don't mind, I'll take it back from**
6 **you.**

7 **So based on that e-mail, I'll tell you it**
8 **looks like there was a board meeting in early February**
9 **where maybe crypto came up.**

10 **Does any of that ring a bell for you?**

11 A Yep.

12 **Q Tell me about that board meeting.**

13 A So I think at this time, I was convinced
14 that now was the time to do crypto. But I was also
15 very aware that my credibility as CEO was at an
16 all-time low in the history of the company, both with
17 investors, the board, and the leadership team.

18 To me, there were only three options. One
19 was sell the company, one was bet on the crypto
20 business model, and one was cut expenses. Cut expenses
21 to me was not an option because it would just delay the
22 inevitable, which is we can't make money from ads and
23 we can't money from selling stuff.

24 So in my mind, there were only -- in my
25 mind, there's only one option, which was go all in on

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1 crypto. But I wanted to bring the team and the
2 investors and the board around to that conclusion in a
3 tactful and compelling as way possible.

4 And so I think what I did and why I wrote
5 that e-mail so strongly worded is because I was -- I
6 wanted to lean into the fact that crypto was going to
7 be our only option. And so why did I bring Credit
8 Suisse to the meeting? There had been a suggestion in
9 the past that, well, we haven't gotten any offers
10 because Ted just doesn't want to sell the company.

11 You know, as a founder/CEO, this is my
12 baby. And that is the truth, that I do not want to
13 sell the company because I feel there is a massive
14 opportunity, and I felt it for a long time with going
15 into crypto, which we talked about. So did I want to
16 sell the company? No.

17 But I never let that get in the way of
18 doing what is best for the company. And so this idea
19 that -- you know, the insinuation was that maybe Ted
20 was on purpose trying to make the sale process a
21 failure because he doesn't want to sell. There were
22 some -- some people insinuated that. And it's like a
23 rumor that I heard, like, may be true, that people may
24 be saying it.

25 And so with Credit Suisse, my thing is

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1 always what are all of the options. And I like nothing
2 more than eliminating options. And I like nothing more
3 than only having one option. So we hired Credit
4 Suisse. And I did my absolute best to sell the
5 company. I put together an amazing story with the
6 team. Credit Suisse, I heard through somebody else,
7 said they had never seen a CEO tell such a good story,
8 be such a good explainer, the vision, the mission, and
9 yet why they are where they are at the same time.

10 And so I wanted to bring Credit Suisse to
11 that meeting. So, again, relying on the credibility of
12 others at this point for them to say, "Listen, don't
13 hear it from Ted. Hear it from us as Credit Suisse.
14 Ted did an amazing job. This has nothing to do with
15 Ted. Selling the company is not an option."

16 Why was that important to me? So then me,
17 in my own little mental board, I could go up to the
18 board and cross that out. This is not an option. It's
19 not because I don't want to sell the company. It's
20 because it's not an option. So that's why I wrote the
21 e-mail this way, is -- and that's why I brought Credit
22 Suisse.

23 **Q Okay. And so do you think, at that board**
24 **meeting, the option of selling the company, do you**
25 **think the board was convinced that that option was**

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1 **crossed out, as you put it?**

2 A I'm not when they would be convinced or
3 not, but -- I'm not sure. But I'm sure, at a minimum,
4 Credit Suisse is saying, "Ted did an amazing job."
5 "Okay. Fine. I'll believe Credit Suisse. It's not
6 Ted's fault. It's not like Ted is trying to
7 intentionally not get a buyer."

8 And Credit Suisse is saying we have no
9 offers, so I would assume that that would lead them to
10 that conclusion. But I can't say for sure.

11 **Q And did crypto come up at that board**
12 **meeting?**

13 A I don't recall for sure. I guess I could
14 flip through the deck. I can't recall. I think so,
15 but I would have to look at the deck again to be sure.

16 **Q Let me give you -- I think this might be**
17 **relevant, but let me give something shorter than the**
18 **deck.**

19 A Okay.

20 **Q I'm handing you a document that's**
21 **previously been marked as Exhibit 169.**

22 A Okay.

23 **Q Exhibit 169, it's on the front and back of**
24 **the page. I think it begins on the back. Yeah.**

25 A Okay.

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1 **Q** It's a multi-page printout of an e-mail
 2 chain ending February 3rd, 2017, with a Bates number
 3 KIK 21266, with the subject "Kik Follow-up." My first
 4 question is going to be, when you're done reading it,
 5 what is this document?

6 A So your -- I missed a part in there. Your
 7 question is going to be what is which document? This
 8 e-mail?

9 **Q Yeah.**

10 A Okay. What is this document -- got it.
 11 There's no reference to a document in this e-mail.

12 **Q Correct. Yeah.**

13 A So this looks like an e-mail thread
 14 starting between me and the board. It looks like a
 15 follow-up e-mail from the board meeting. And it looks
 16 like a private reply from Jim to me. And then it looks
 17 like me forwarding that reply to Peter. And then it
 18 looks like Peter replying to me.

19 **Q Got it. So this is an e-mail chain you**
 20 **were involved in relating to a board meeting and its**
 21 **follow-up?**

22 A That's what it looks like, yes.

23 **Q Okay. And do you think this was the board**
 24 **meeting we were just discussing with -- where Credit**
 25 **Suisse came and --**

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1 of me.

2 **Q That's fine. As long as we know you're**
 3 **guessing, go ahead.**

4 A My guess is, based on this e-mail, we
 5 discussed two options. One is to reduce the amount of
 6 money we're spending. And the other is go all in on
 7 crypto. At this time, my recollection is I knew that
 8 reducing spending was a futile option because it would
 9 just prolong the inevitable if we weren't --

10 **Q Right.**

11 A -- going to go all in on crypto. And if we
 12 were going to go all in on crypto, we were already a
 13 very, very small team. And so I think probably I was
 14 looking at that as, listen, one of our values is we
 15 look at all the options. I think -- I seem to recall
 16 one board member in particular pushing that option of,
 17 like, massively reducing expenditures to extend runway.

18 And so being true to that value, we said
 19 we'll look at that option. And it looks like the other
 20 option we discussed was going all in on a
 21 cryptocurrency. That was the option I was excited
 22 about. It looks like Jim, as one of the board members,
 23 replied. And it looks like -- and, again, this is why
 24 I had to be so strategic about how I rolled out this
 25 idea inside the company, you know, not sure the board

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1 A I would have to look at, like, the exact
 2 dates. But, like, seems reasonable.

3 **Q Okay. Yup. Ted, I want to be fair when I**
 4 **ask the question. Here is the prior exhibit,**
 5 **Exhibit 12B.**

6 A Yes. Thank you.

7 **Q Yeah, you're welcome.**

8 A So, yeah, this is January 27th. And this
 9 is February 2nd. It seems reasonable to me that this
 10 would be a follow-up e-mail from this board meeting.

11 **Q The board met periodically, but not every**
 12 **other day, I take it?**

13 A Yes. Yeah.

14 **Q So does it appear from this that crypto may**
 15 **have been discussed at that board meeting?**

16 A Yes, it does.

17 **Q Okay. I'm just trying to --**

18 A I think it was in the slides, but I can be
 19 wrong. I didn't get that far in the deck.

20 **Q It's fine. It's fine. I'm trying to --**
 21 **you can read the slides. I'm trying to remember if you**
 22 **can -- if looking at this e-mail helps you remember any**
 23 **discussion or reaction from the board.**

24 A I can't recall the specific reaction. But
 25 I can try to guess based on having this e-mail in front

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1 gets why Kik coin would be big.

2 The reality is not many people in the world
 3 understood or even today understand why
 4 cryptocurrencies are going to be big. And so this was
 5 my concern is the board would say, "Listen, doesn't
 6 this guy get it? Doesn't he get that we're not making
 7 any money, we're heading towards a wall, we're spending
 8 lots of money, we're not going to raise more, we're not
 9 going to sell the company? Doesn't he get it?"

10 And the answer of course is of course I got
 11 it. Of course I understood. And so I had to be very
 12 careful about step by step convincing the board to bet
 13 on this other option, this option that had never been
 14 tried before in human history.

15 **Q Okay. And so it looks like Jim Estill,**
 16 **E-s-t-i-l-l, if I pronounced that right, was pretty**
 17 **supportive of the idea, at least of exploring it,**
 18 **right?**

19 A Yes, he was.

20 **Q Who was the board -- I think you said there**
 21 **was a board member who wanted to focus on cost cutting?**

22 A Yep.

23 **Q Who was that?**

24 A That was the partner from Foundation
 25 Capital, Paul Holland.

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1 **Q Did he ultimately vote against moving into**
2 **crypto?**

3 A I don't think it's right to say he voted
4 against going into crypto. I think it's that he voted
5 for doing major cost reductions.

6 **Q Fair enough. Okay. In the first paragraph,**
7 **Jim Estill writes the last sentence -- tell me if you**
8 **don't see where I am -- "People call it a Hail Mary,**
9 **but to me, that is a long shot. And I really do not**
10 **think it is a long shot."**

11 **Do you see that?**

12 **Sorry. I can point it out.**

13 A I did just read it. Yes, there. Yep.

14 **Q Did people consider the crypto project a**
15 **Hail Mary on Kik's board?**

16 A I think when people first heard the idea,
17 they, like almost everyone else I've ever introduced
18 this idea to, thought it was crazy. But also, they --
19 like everyone else, as they spent more time with it,
20 they heard more about it, they understood more about
21 it, realized that like Jim realized here, not only was
22 this not a long shot, but it was a great shot.

23 **Q Right. Okay. He lists out advantages.**
24 **You see a list there including you have a team in**
25 **place, you have users, users who are the right**

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1 **demographic. I won't read through all of these.**

2 **But do you generally agree that these were**
3 **the advantages Kik had in moving to a crypto project?**

4 A I think these are the advantages from Jim's
5 point of view. Some of them I would agree with. There
6 may be some in here, I haven't read them all, that I
7 would disagree with or would articulate differently.
8 And there's probably some that are missing.

9 **Q We touched on this earlier. But the fact**
10 **that -- obviously, Kik was an established company by**
11 **this point. It's an advantage, right?**

12 A Uh-huh.

13 **Q For moving into a crypto project?**

14 A I would say it's an advantage, yes.

15 **Q The Kin project was not two guys and a**
16 **dream from their basement. It was an established**
17 **serious company, right?**

18 A Correct.

19 **Q Right. And it had a significant user base?**

20 A Uh-huh.

21 **Q I think Jim Estill identifies that.**

22 **He defines it as users who are the right**
23 **demographic and just getting into money?**

24 A Uh-huh.

25 **Q Do you see that?**

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1 A Uh-huh.

2 **Q Is that -- I guess, first, would you**
3 **consider that an advantage for Kik versus some other**
4 **crypto project?**

5 A I would consider it an advantage for Kin to
6 have an app like Kik in its ecosystem.

7 **Q Right.**

8 A For sure.

9 **Q As opposed to no existing user base?**

10 A For sure.

11 **Q Okay. And in terms of the demographic,**
12 **he's saying, right, that the Kik messaging app user**
13 **base are -- correct me if I'm wrong -- young users who**
14 **are just getting into sort of the use of money in their**
15 **lives?**

16 A That's one reason he states there. We had
17 young users. We also had older users as well. So
18 that's sort of a different conversation, I think, for
19 us. We had seen that millions of people had used Kik
20 Points. And so -- regardless of age, that this would
21 be a great fit for our community.

22 **Q We're going to turn to this more in a bit.**
23 **But did the Kik user base -- which we talked about this**
24 **morning, all ages, but it had a lot of younger people**
25 **in it, right?**

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1 A I guess a lot of it is -- like, the only
2 term I would -- to be more specific, like, I think
3 roughly a third of our user base was teenagers. You
4 know, today, I know actually our user base is a little
5 bit older, for example. I don't know the exact numbers
6 at the exact time.

7 **Q Yeah.**

8 A Some of our users were younger. Some of
9 our users were teenagers. Many were not teenagers. So
10 I don't have the specific what the curves look like at
11 what time.

12 **Q That's a fair point. Just I had heard that**
13 **the Kik messaging app user base may have started as a**
14 **young user. But it's an established messaging app over**
15 **the years, that those users may have grown into young**
16 **adults and still be using Kik, right?**

17 A When you have an app with millions of
18 users, there's many different subsets within that user
19 base that use it for different reasons and different
20 ways.

21 **Q In your head, was there a good overlap**
22 **between the types of people who used Kik, the messaging**
23 **app, and people who might participate in the Kin**
24 **ecosystem?**

25 A Yes. In terms of within the Kin ecosystem

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1 within Kik, yes, for sure.

2 **Q Sure.**

3 A For sure. We had gotten millions of people
4 using Kik Points. Like, we had the proof, the
5 indisputable proof, the data, that showed that millions
6 of people would use a new currency inside of Kik.

7 **Q Okay. I want to go towards the end of**
8 **Jim's e-mail to you. It starts on the second page of**
9 **this printout chain on the back. He writes,**
10 **"Blockchain currency is the dot-com of today."**

11 **Do you see that?**

12 A Uh-huh. Yep.

13 **Q Did you agree with him about that?**

14 A I do agree with him.

15 **Q You do agree with him?**

16 A I do.

17 **Q What makes blockchain currency the dot-com**
18 **of today?**

19 A Because it's the exciting thing that
20 every -- especially at this time, it was the thing that
21 everybody was excited about. And yet, it was the thing
22 that almost nobody actually understood, and 99 percent
23 of these things were flawed and would go to zero.

24 **Q Is it also true that despite that**
25 **99 percent failure rate, the one percent who might**

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1 cryptocurrency to be used to solve the fundamental and
2 global problems of what was happening in the consumer
3 industry, technology industry. And that if we solve
4 that for the world through all of our own independent
5 efforts, that based on the fundamentals of crypto
6 economics, that the cryptocurrency would get more and
7 more valuable if there was more and more demand.

8 **Q Got it. Okay. And I think this follows**
9 **along with what you're saying. He writes, "If you get**
10 **even a bit along, fundraising would be easy. They are**
11 **licensed to make \$\$. "**

12 **Do you see that? Yeah, there on that page.**

13 A I think when I read this, there is an
14 incredible amount of financial opportunity in
15 cryptocurrencies. But how those financial
16 opportunities get manifested is not intuitive. And so
17 my guess would be, when Jim wrote this -- you know, for
18 example, people would say, "Hey, we should just add
19 transaction fees to the whole thing. And we'll take
20 the transaction fees, and it will be a license to make
21 money."

22 But that's actually failing to understand
23 the real power of what these cryptocurrencies are.

24 **Q Oh, got it. So someone, when you first**
25 **presented the project, might have a vision of -- and**

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1 **succeed in this would stand to be a potentially vastly**
2 **successful enterprise in the future?**

3 A No. And maybe it's just the words you're
4 using that I would tweak or change.

5 **Q Please.**

6 A There was an incredible economic
7 opportunity here. The economic opportunity of dot-com
8 was to build new tech companies. The economic
9 opportunity of crypto was to build new global
10 currencies. So they were the same in that there was a
11 huge -- is a huge economic opportunity. But in where
12 that economic opportunity comes from is fundamentally
13 different.

14 **Q Understood. I've been trying to use the**
15 **term "project" or something not --**

16 A Currency.

17 **Q Currency. Okay. But that 99 percent of**
18 **them will fail. But whatever does succeed has the**
19 **potential to be a huge transformative?**

20 A Absolutely.

21 **Q And that you might be able to attract a lot**
22 **of not only interest, but money in the start of a**
23 **project because there's a possibility for people to be**
24 **extremely successful if the project succeeds?**

25 A I think the opportunity was for a

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1 **then Kik can have a gatekeeper function where it**
2 **charges a small toll for every transaction?**

3 A Or Kin could -- Kik could print more of the
4 currency or -- all sorts of people have different ideas
5 of, you know, all of the things you might be able to
6 do. Most of those things are wrong. At the end of the
7 day, like, the business model here is to launch a new
8 currency. As people buy that currency, earn that
9 currency, use that currency, there begets more and more
10 demand.

11 And so the powerful thing here is, like,
12 everybody through their own selfish efforts trying to
13 make their own piece of that currency more valuable is
14 at the same time making everybody else's pieces more
15 valuable as well. And then you latter that altogether,
16 and I think it becomes an unstoppable network effect.

17 **Q Got it. And so that -- to you, that was --**
18 **at least in your head, if other people didn't**
19 **understand it yet, that was the economic reality of a**
20 **cryptocurrency project to you?**

21 A Correct. That's the fundamentals of the
22 economics behind cryptocurrencies.

23 **Q You put that better than I did. And that**
24 **was always in your head --**

25 A Yes.

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1 **Q -- when you were thinking about this**
2 **project?**

3 A You know, I think the question of when it
4 became as clear as what I just stated, I'm not sure.
5 But certainly, the idea that we could create our own
6 Bitcoin, set some of that Bitcoin aside for ourselves,
7 and then launch an ecosystem that grew demand for that
8 Bitcoin, making everybody's Bitcoin more valuable
9 including our own, you know, that was sort of the
10 fundamental opportunity I spotted back in 2011.

11 **Q Got it. Okay. You forward Jim's e-mail to**
12 **Peter Heinke and say, "FYI, some good thoughts from**
13 **Jim. I couldn't agree more."**

14 **I take it you were -- you couldn't agree**
15 **more with his enthusiasm for the crypto project, right?**

16 A Maybe let me step back.

17 **Q Yeah.**

18 A Like, why did I forward this to Peter?

19 **Q Yeah.**

20 A I forwarded this to Peter, again, relying
21 on the credibility of somebody else to try to convince
22 somebody on my leadership team not to be so cynical and
23 to -- maybe "cynical" is the wrong word, but to
24 understand and believe that this was a good option.

25 **Q Got it. Peter might have been skeptic at**

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1 **the time?**

2 A I think every single person I ever talked
3 to about this started, to some degree, as a skeptic.

4 **Q You wrote, "Just told the YPO group, and**
5 **everyone's eyes lit up."**

6 **What's the YPO group?**

7 A It's Young Presidents' Organization.

8 **Q Oh, it's like a business association?**

9 A Yeah. It's other CEOs. I think there's
10 nine other CEOs.

11 **Q Okay. Peter writes, "There are nuances**
12 **here" -- Peter responded to you with some stuff,**
13 **including, "There are nuances here that you have to**
14 **consider, also from a securities law standpoint."**

15 **I think I'm giving you the third warning of**
16 **the day of don't tell me something that begins with,**
17 **"My lawyers told me X."**

18 A Yep.

19 **Q Did you discuss with Peter at this early**
20 **phase securities laws issues?**

21 A Not to my knowledge.

22 **Q Okay.**

23 A Not to my recollection. I don't remember
24 discussing it at that point with him.

25 **Q Later on?**

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1 A At some point, yes, certainly, we discussed
2 it. But I can't remember at that point.

3 **Q You're not a securities lawyer, right?**

4 A Correct.

5 **Q Okay. Had you dealt much with securities**
6 **laws issues in your career as the Kik's CEO?**

7 A Nope.

8 **Q Okay. Roughly -- I don't know need the**
9 **exact date. Roughly, in the process of the Kin**
10 **project, when did you begin, if at all, to think about**
11 **securities laws issues in connection with a token**
12 **project?**

13 A I would say pretty -- like, if -- I can't
14 recall exactly. But if I were to guess, at this point,
15 I was not thinking about securities law. Why? Because
16 I knew Kik Points wasn't a security. That was a
17 currency. We got people to use it. All we're doing
18 now is we're guaranteeing the supply of Kik Points.

19 We're giving the ability to buy Kik Points.
20 And we're giving the ability for other developers to
21 integrate Kik Points and for it to be a business model
22 for them, too. So if Kik Points wasn't a security and
23 we're just doing this, why would this be a security?

24 So that's probably why I wasn't thinking
25 about it at the time. I also know at the time, though,

Page 177

1 like, discussion of it was ramping up in the industry.
2 So I'm not sure if it had ramped up enough in the
3 industry at that point for me to notice from that other
4 angle, but I'm not sure.

5 **Q Okay. This e-mail from Peter didn't**
6 **trigger you to begin thinking about it, or you don't**
7 **know?**

8 A I don't recall.

9 **Q Okay. How about -- again, I'm just trying**
10 **to see when you were beginning to be aware of or**
11 **thinking of securities laws, whether that does or does**
12 **not impact this crypto project I'm thinking about.**

13 **How about by the time of the white paper,**
14 **which I'll tell you is in May?**

15 A I can't recall exactly, but I would assume
16 we had talked about it at that point.

17 **Q Okay. I'll take that back from you. Thank**
18 **you.**

19 A No problem.

20 MR. MURTHA: You said that you became aware
21 around the time of Exhibit 169 that discussions around
22 securities laws topics were ramping up, I think, maybe
23 you said, or something to that effect.

24 What were you referring to?

25 THE WITNESS: So that's not quite what

Page 178

1 I said.

2 MR. GIBBS: Just a caution. Answer it as
3 best you can without disclosing any communications with
4 counsel.

5 THE WITNESS: That's not quite what I said.
6 I said I know that in the industry, discussion of what
7 may or may not constitute a security ramped up.

8 MR. MURTHA: Okay.

9 THE WITNESS: So, obviously, people are
10 talking about it in the industry today. People were
11 not talking about it in the industry back in 2011. And
12 at some point, you know, there was a curve of talking
13 about it not at all, not at all, and then a little bit,
14 and then more, and then more and more and more, and
15 then here we are today.

16 So I'm not sure -- if we were to plot that
17 curve of how much the industry was looking at it and
18 when this date was, I'm not sure where it would sit on
19 that curve.

20 MR. MURTHA: Okay.

21 BY MR. LEASURE:

22 **Q Can I show you another board deck, I think,**
23 **moving forward in time. This is a document previously**
24 **marked as Exhibit 14A. Exhibit 14A is an e-mail with a**
25 **multi-page printout, beginning with the Bates stamp**

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1 and the board of directors that this was a good option
2 with crypto. And so I think what this is -- I think
3 one of the things I did is -- you know, I think one of
4 the reactions from the leadership team was, "Well, what
5 data is this option based on?"

6 I could give my logic, and I could give,
7 you know, Kik Points, and I could explain as best as I
8 could, but I don't recall that being enough at the
9 time. And so I think what this is -- if I recall,
10 this is our chief marketing officer saying, "Well,
11 maybe I'll go out and do some research, come back, and
12 then we can look at that." And I think this probably
13 is the output of that research, but I'm not sure.

14 **Q Fair enough. In light of that, let me**
15 **point you to the page 2 of the deck.**

16 A Okay.

17 **Q It has -- these documents all come with**
18 **little numbers on them.**

19 A Yeah.

20 **Q This one is KIK 26452.**

21 A Okay.

22 **Q It's called "Agenda."**

23 A Yep.

24 **Q Just looking at that agenda, you had**
25 **mentioned that the chief marketing officer might have**

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1 **KIK 26450. It's dated February 16th, 2017, from Ted**
2 **Livingston to Kik board.**

3 A Uh-huh.

4 **Q And I am going to point you to parts of**
5 **this document, but take your time. The first question,**
6 **you'll never see it coming is: What is this document?**

7 A It looks like a board deck that would be
8 used to facilitate a discussion with the board of
9 directors.

10 **Q Okay. And do you have any recollection of**
11 **this -- of the particular board meeting to which this**
12 **deck was in connection?**

13 A I don't have any specific recollection to
14 the meeting itself.

15 **Q Okay. As I eyeballed the deck, it looks**
16 **like the discussions on crypto had somewhat advanced or**
17 **deepened with the board; is that fair?**

18 A I'm not sure, actually, if that is fair or
19 not. I think what this is, again, relying on the
20 credibility of others, you know, there's this -- I'm a
21 very intuitive gut-driven person. I always have been.
22 I use logic to move fast and to eliminate options and
23 to arrive at the best option faster than if you just
24 wait for the data, wait for the data.

25 But I needed to convince my leadership team

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1 **gone out to put some data around these questions.**

2 A Uh-huh.

3 **Q That's Erin Clift?**

4 A Correct.

5 **Q Does that appear to be part of this agenda**
6 **for this meeting?**

7 A It does appear to be part of that.

8 **Q Do you know what she did?**

9 A What does that mean?

10 **Q Do you know what she did? I'm sorry. Not**
11 **existentially. Do you know -- do you know what she did**
12 **with -- if she was tasked with go put some data around**
13 **the question of a potential crypto project?**

14 A She probably did a lot of research through
15 different means. I think probably one of the things
16 she did is talked to the people at CoinFund about it,
17 to get their thoughts and their data and their view of
18 it, as sort of a viewed expert in the ecosystem at the
19 time. But probably looked at a number of sources.

20 **Q Fair enough. And we'll turn to CoinFund in**
21 **a bit. Can I point you to page 4?**

22 **That's the one with Bates stamp 26454.**

23 A Yep.

24 **Q I think this is referring to the Credit**
25 **Suisse look for an acquirer project; is that right?**

Page 182

1 A Yep.

2 **Q Were these two -- I see -- aside from**

3 **Credit Suisse, I think I see five -- I don't know what**

4 **Chinese Renaissance is. What is Chinese Renaissance?**

5 A I think they're an investor in China. I'm

6 not sure.

7 **Q Are some of these potential acquirers or**

8 **partners for a merger, the other companies listed here?**

9 A Yes, that's what it looks like.

10 **Q Tango, Zynga, and the others?**

11 A Uh-huh.

12 **Q Did the process of talking with potential**

13 **acquirers -- I'm trying to understand -- did it end on**

14 **its own or did it end because the crypto project was**

15 **adopted?**

16 A I think it was probably both. Like, these

17 processes don't end, like, you know, yesterday the

18 process was on, and today it's over.

19 **Q Right.**

20 A Like, they sort of phase out. And so, you

21 know, as you get -- and you never get, like, hard noes.

22 Like, no, we'll never buy you. Like, you never get

23 that. You just -- people are slower and slower to

24 return your e-mails, and you sort of get the hint that

25 at least at this point, they are not interested. And

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1 you start to get those signals from more and more

2 people as you realize -- and that's a signal that this

3 process is not going to work out.

4 But it's never definitive. At the same

5 time, our conviction as a leadership team now, not just

6 as Ted, but as a leadership team and a board of

7 directors, was growing. So as our conviction in

8 selling the company was going down, our conviction in

9 crypto working as a business model, a new way to build

10 a consumer app, and a new way to compete was growing.

11 **Q Was Kik still involved in merger**

12 **discussions or selling the company discussions after**

13 **the crypto project was publicly announced in May?**

14 A Not to my knowledge. But I do know, you

15 know, even after we announced it, there was -- again, I

16 think we had -- it was a very tough time the leadership

17 team went through. And so I think there -- I can't

18 recall exactly, but ideas of, like, "Oh, now maybe we

19 can sell the company." I'm like, "We're not selling

20 the company."

21 But, you know, I think for some people,

22 money was very important, and offloading this thing and

23 locking in a return was important, even if it wasn't

24 what was best for the company.

25 **Q Right. Okay.**

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1 A So I don't know for sure, but I'm sure

2 there were conversations.

3 **Q Okay. Fair enough. The next section is**

4 **the PowerPoint which you're --**

5 A Yep.

6 **Q -- which you're drawing on. I should scold**

7 **you about that.**

8 A Oh, sorry.

9 **Q No, it's okay.**

10 A It's work product.

11 **Q You're learning.**

12 **Next section is "Kik in the blockchain."**

13 **Do you see that?**

14 A Yep.

15 **Q Do you recall discussion at this board**

16 **meeting -- it looks like there -- if you go to the**

17 **slides following it, it looks like there's some data**

18 **and information about the market.**

19 **Do you see that?**

20 A I do.

21 **Q Do you recall discussion with the board**

22 **about that?**

23 A It -- I don't recall specific discussion.

24 But looking at this, you know, like, I can recall these

25 slides being real, and so I assume we would have a

Page 185

1 discussion around it.

2 **Q Sure. Of course. One of the slides, the**

3 **one under 26457, it looks like there's some data on the**

4 **total size of the market.**

5 **Do you see that?**

6 A Yep.

7 **Q Was that discussed at some point, what the**

8 **market looks like for crypto assets?**

9 A Yep.

10 **Q What was discussed, that it was promising**

11 **for a potential Kin project?**

12 A So maybe let's step back. What's the

13 context of this?

14 **Q Yeah.**

15 A Like, if you look at the agenda, you'll see

16 that Erin was presenting this section. And I am

17 presenting this section before.

18 **Q Got it.**

19 A Why? I was presenting the section on the

20 process because I wanted the board to know that I

21 personally was taking the process very seriously. And

22 yet, I didn't present what is listed here as the

23 potential for an ICO. Why? Because, again, I had to

24 convince my board that this was a viable option.

25 And so, once again, I was saying, "Don't

Page 186

1 hear it from me. Hear it from Erin."

2 **Q Got it.**

3 A So this is her research and these are her
4 slides.

5 **Q Got it. Okay. This is one you were**
6 **presented. Fair enough.**

7 **Page 8 -- I just want to get your sense of**
8 **where a Kin project might fit in. Page 8 begins,**
9 **"Crypto investors are largely funding three areas:**
10 **Blockchain platforms, infrastructure projects, and**
11 **decentralized applications."**

12 **Do you see that?**

13 A Yes.

14 **Q What's the Kin project?**

15 **Is it one of those or is it none of those?**

16 A I would say it is all of those and none of
17 those at the same time.

18 **Q Yeah. That's a paradox. Sorry. I didn't**
19 **mean to be glib.**

20 **What do you mean by that?**

21 A What would I call Kin at the end of the
22 day --

23 **Q Uh-huh.**

24 A -- is a decentralized currency. That's
25 what it is. It is a currency. So when I look at

Page 188

1 **decentralized --**

2 A Ether is a decentralized currency.

3 **Q Apologies. I used the wrong term.**

4 **How is that different from Kin then?**

5 A Because Ether was trying to get people --
6 Ether was the currency that would power the smart
7 contract applications. We weren't trying to get
8 anybody to use smart contract applications because we
9 thought they were flawed for the most part and that
10 nobody would ever use them. And we thought that back
11 then, that has largely proven to be true.

12 So, like, if Ether -- Ethereum had a
13 currency, we had a currency, that's true. They were
14 trying to use the currency to do one thing. We were
15 trying to use the currency to do something else.

16 **Q Okay. Let me point you a few slides**
17 **onwards. It's Slide 10. And it has the Bates stamp**
18 **26460. Do you see that?**

19 A Yep.

20 **Q It's the section that's called the**
21 **"Immediate Opportunity."**

22 A Yep.

23 **Q Just because you had given me some helpful**
24 **context before about that Erin presented the prior**
25 **section there, Erin Clift.**

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1 these, these are things that you need to sit underneath
2 to make that currency work. Actually, I don't think
3 you need decentralized applications, but you need a
4 blockchain and the infrastructure. I would almost say
5 those two are the same thing.

6 **Q Got it.**

7 A So I would -- and, again, I think this is
8 just, like, the very early and misguided understanding
9 of what exactly crypto was at the time and even is
10 today. People were like -- they're trying to -- it's
11 this brand new thing, and they're trying to put it into
12 familiar buckets that they understand to try to help
13 them explain to other people who don't -- even
14 understand it less, and so they try to put it into
15 these buckets.

16 But in doing so -- like, Kin is none of
17 these things, and yet, is all of these things. It's a
18 fundamentally new thing.

19 **Q And so I think I understand your answer.**

20 **But it's a decentralized cryptocurrency?**

21 A Uh-huh.

22 **Q Which I think is how you --**

23 A A decentralized currency is a
24 cryptocurrency.

25 **Q Right. How is -- Ethereum is a**

Page 189

1 A Yep.

2 **Q Did you present this?**

3 **Did Erin present this upcoming section?**

4 A I can't recall. But if I were to guess, I
5 would guess that Erin presented this.

6 **Q Okay. This was still in the spirit of you**
7 **having others, not you yourself, present the**
8 **opportunity here?**

9 A I am not crazy.

10 **Q Okay. Fair enough.**

11 A Other people agree with me.

12 **Q Fair enough. The next slide, Slide 11,**
13 **this might go into what Kin is in its distinction.**

14 **The header is: "Kik can be the first major**
15 **consumer network to apply real use cases built off of**
16 **blockchain."**

17 **Do you see that?**

18 A Uh-huh. I do.

19 **Q And is that true, is that fundamentally**
20 **what the Kin project is?**

21 A I think so. I would say there is no --
22 like, the consumer use cases of other cryptocurrencies
23 today, outside of just speculative trading, are almost
24 zero for the most part.

25 **Q Okay. All right. And if the dreaded day**

Page 190

1 comes when Facebook Coin, Zucker Coin, or whatever --
2 A It's not going to be a dreaded day. When
3 the exciting day comes, yes.

4 **Q Where competition is there, that would**
5 **be -- would that be an example of another major**
6 **consumer network attempting to apply real use cases at**
7 **least, built off of blockchain?**

8 A So Kin is a cryptocurrency.

9 **Q Yep.**

10 A For Facebook Coin to compete with Kin, it
11 would also need to be a cryptocurrency. For it to be a
12 cryptocurrency, it would also need a blockchain.

13 **Q Yeah.**

14 A So I would say yes.

15 **Q Yeah. I'm just trying understand what --**
16 **if Kin is -- if Kin is the first, what its peers would**
17 **be.**

18 A Uh-huh.

19 **Q And I'm thinking a Facebook Coin would be.**

20 A Uh-huh. Uh-huh. Uh-huh.

21 **Q Okay.**

22 A Yeah. If Facebook copied Kin exactly,
23 which they probably will.

24 **Q Copy and crush.**

25 **The bottom of this reads, "We believe that**

Page 192

1 here because people were using it in the industry at
2 the time to describe people who were buying
3 cryptocurrencies.

4 **Q And do you know why the industry changed**
5 **the term?**

6 A I don't know. I don't even know if it was
7 an industry term at some point. I don't know if it
8 could have been a term for CoinFund. I don't believe
9 it's a term I have ever used.

10 **Q Okay. Can I point you to Slide 13.**

11 **That's the one with Bates stamp 26463.**

12 A Yeah.

13 **Q The header is "Crowd funders have strong**
14 **appetites for exploration."**

15 **Do you see that?**

16 A Yep.

17 **Q Okay. Good. And I think we're still --**
18 **you believe this is still Ms. Cliff's section?**

19 A I believe so.

20 **Q Her -- I don't want to say book report, but**
21 **her report back to the board on what she's seen --**

22 A Her own independent findings.

23 **Q There you are.**

24 A Which is what I wanted. I wanted somebody
25 to independently verify that this was a good idea.

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1 **the scale of our network alone will drive strong**
2 **interest from the cryptocurrency investor community."**

3 **Did you believe that?**

4 A I think the question here is the term
5 "crypto investor." You know, I talked a little bit
6 earlier about people not understanding this space. And
7 so they're trying to put it into buckets that they
8 understand to make it more easy to understand for
9 themselves, but to make it more easy to explain to
10 other people.

11 Maybe let me say how could I reword this so
12 that I would agree with it. We believed that the scale
13 of our network alone will get people who are interested
14 in cryptocurrencies excited about Kin.

15 **Q Sorry. There was a phone tone.**

16 **Did you want to continue or was that --**

17 A No, that was it. I was just rewording the
18 sentence for you, if that's helpful.

19 **Q What -- just from your perspective, it**
20 **sounds like you wanted to reword the term "crypto**
21 **investor" into something else; is that right?**

22 A Uh-huh.

23 **Q Why?**

24 A Because I think it's inaccurate. Like,
25 it's not an industry term anymore. Maybe it was used

Page 193

1 **Q Yeah. She gives some data here.**

2 **Do you see that?**

3 A Yep.

4 **Q And reasons why people might invest in a**
5 **project. Do you see that?**

6 A Yep.

7 **Q She lists as a source CoinFund investor**
8 **survey, that's in truly small print --**

9 A Yep.

10 **Q -- on the bottom of it.**

11 **Do you know anything about that survey,**
12 **what she's drawing off of?**

13 A I can't recall specifically. But if I had
14 to guess, it would be, as part of her due diligence,
15 she reached out to CoinFund. As part of their due
16 diligence, they did a survey of people they knew who
17 were buying cryptocurrencies, and that they called that
18 an investor survey.

19 **Q Okay. That's fine. Do you recall**
20 **discussion about this survey with the board?**

21 A I recall -- I don't recall specifically.
22 But, you know, I can recall points of it being used,
23 pieces of it being used to explain why this was a good
24 idea, and to bring data to why this was a good idea.

25 But I don't recall myself personally

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1 reading through the report itself.

2 **Q Okay. We might turn to that in a bit. How**
3 **about other people? Do you know, in your discussions**
4 **with them, did they point to CoinFund analysis or data**
5 **that was out there in discussing the Kin project?**

6 A If I had to guess, I'm sure they would.
7 Sure.

8 **Q Okay. Do you remember?**

9 A I don't remember.

10 **Q That's fine. Let me see if there's**
11 **anything else in this document. Yeah. This might just**
12 **cue us to "Next Steps." Page 21, Bates stamp 26471.**

13 A Uh-huh.

14 **Q This is -- I should apologize. The page**
15 **before that reads, "Next Steps."**

16 A Uh-huh. Okay.

17 **Q I just want to orient you. Any sense on**
18 **where -- is this you? Is this Erin Clift?**

19 **Is this somebody else?**

20 A My guess is this would be Erin.

21 **Q Okay.**

22 A But I can't say for sure.

23 **Q She writes, "Three weeks to gauge**
24 **preliminary investor interest."**

25 **Do you see that?**

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1 A I probably saw some of them. But I don't
2 recall any specifically.

3 **Q Okay. So it sounds like -- you can't speak**
4 **for all of Kik or what everyone did. You can only**
5 **speak for what you know. So I appreciate that.**

6 **It sounds like you were confident at this**
7 **time and up to the token distribution event that people**
8 **would want to earn, use the Kin token?**

9 A Correct.

10 **Q And you believed that because of what you**
11 **saw as the success of the earlier Kik Points project?**

12 A Correct.

13 **Q Is there any other reason you had -- you**
14 **were confident that people would want to use Kin**
15 **tokens?**

16 A I think I was also confident based on my
17 experience building consumer products.

18 **Q Sure. Okay. Fair. You built a successful**
19 **messaging app, right?**

20 A Correct.

21 **Q And how does that connect to being**
22 **confident -- I mean, I understand that people -- you**
23 **had experience with people wanting to join a chat**
24 **community and all of the things that go into the Kik**
25 **messaging app. How does that equate into people would**

Page 195

1 A Yep.

2 **Q And is this describing -- and it says the**
3 **word "CoinFund" here. Is this describing work that she**
4 **was doing with CoinFund?**

5 A That would be my guess.

6 **Q Okay. Under -- so we'll talk about**
7 **CoinFund in a minute. Under the -- there's two items**
8 **for Kik. Do you see that, user research and brand**
9 **developer exploration?**

10 A Yep.

11 **Q Under "user research" -- besides "user**
12 **research," it writes, "Understand fit with users, ie,**
13 **earn/redeem."**

14 A Uh-huh.

15 **Q What was done for that, do you know?**

16 A I don't recall. Like, from my point of
17 view, I knew there would be a fit with users because we
18 had already validated that at scale with Kik Points.

19 **Q By the number of Kik Points transactions?**

20 A Correct.

21 **Q Okay. How about what people might want to**
22 **do, not with Kik Points, but with a cryptocurrency?**
23 **Was there -- were there studies done by that by Kik?**

24 A There probably were.

25 **Q Did you see them?**

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1 **want to earn, spend, redeem Kin?**

2 A Because the logic was very simple. If you
3 run a big community, and you find something the
4 community wants, and you tell them the only way to get
5 it is with this specific currency, their next question
6 will be: "Okay. Then how do I get that currency?"

7 **Q Got it. Okay. Your sense of the -- not**
8 **online, but dynamics of people in a digital**
9 **environment?**

10 A If the United States government said the
11 only way to get coffee tomorrow is -- the only legal
12 way is with Bitcoin, would you be confident that would
13 go find how to get Bitcoin?

14 **Q Anything that has to do with coffee, I**
15 **think there would a riot, also. People would be very**
16 **concerned about their morning.**

17 **You didn't have -- there weren't -- you**
18 **didn't -- you didn't rely on any particular studies on**
19 **how people would use Kin in the future?**

20 A No.

21 **Q Okay.**

22 A I had been thinking about this for years at
23 this point. And at this point, I could see the light
24 at the end of the tunnel, that we were going to get to
25 go for it. So all of this work was, from my point of

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1 view, done as an exercise for people to convince
2 themselves that this was a good idea. Convince
3 themselves and then help me convince others.

4 **Q Is it fair to say you were somewhat**
5 **agnostic on what precisely people would want to do with**
6 **their Kin in the future? Let me ask that a better way.**

7 **You didn't have particular desired use**
8 **cases for Kin when the ecosystem was up and running?**

9 A I think we had use cases we didn't want to
10 happen with Kin for sure, like on the illegal and
11 safety side.

12 **Q Yeah.**

13 A But in terms of outside of those, what we
14 did want Kin to be used for, what I believe and still
15 believe today is that there will be millions of ways to
16 earn and spend Kin in the future. And so, you know,
17 which ones come first and which come later and which
18 can we foresee and which ones can't we foresee is sort
19 of an irrelevant exercise.

20 **Q Okay. Fair enough. Let me point you to**
21 **one more page in this document, 22, 26472.**

22 A 22?

23 **Q I'm sorry. Page 22.**

24 A Got it.

25 **Q And then that has Bates stamp 26472. It**

Page 199

1 **begins with: "Well-known decentralized token sales."**

2 **Do you see that?**

3 A Yep.

4 **Q Are these somewhat -- just based on the**
5 **appearance of this, this appears to me to be giving**
6 **some comparables about what recent token sales were**
7 **able to raise in the market.**

8 A Uh-huh.

9 **Q Is that a fair reading of it?**

10 A Yep.

11 **Q Okay. So these are from -- I guess**
12 **Ethereum is one thing from 2014, but there are three**
13 **from 2016. Do you see that?**

14 A I do.

15 **Q 24 million, 33 million, and 19 million.**

16 A Yep.

17 **Q Was that -- I guess I just want to get**
18 **context in terms of the amount of the raise that Kik**
19 **was expecting compared to what it did raise, I guess,**
20 **first. It ultimately raised \$100 million, correct?**

21 A I wouldn't use the word "raised." I would
22 use the word "sold."

23 **Q Fair.**

24 A It ultimately sold almost \$100 million
25 worth of Kin.

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1 **Q Okay. That's obviously some multiple more**
2 **than -- this is February of 2017, but some comparables**
3 **that were put into this document, right?**

4 A Uh-huh.

5 **Q From your perspective, were you expecting**
6 **at this time, February of 2017, a sale of \$100 million**
7 **of Kin?**

8 A I can't recall exactly. But I would say my
9 guess would be no.

10 **Q Okay. What happened -- you were expecting**
11 **something less, I take it.**

12 A It was hard to know at the time what the
13 expectations should be. I don't recall having a
14 specific number in mind.

15 **Q I'm sure you didn't. But it was uncertain?**

16 A Uh-huh.

17 **Q But you weren't thinking in the range of**
18 **magnitude of the sale of 100 million; is that what you**
19 **just said?**

20 A I think, at some point, I said in front of
21 the company that somebody else said that we might be
22 able to sell \$100 million worth. And that got me
23 excited because for me, again, I had been thinking
24 about this for years and was unable to share this with
25 people for years. And then as I shared it with people,

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1 most of the time, it got pushed back.

2 And at the same time was going through a
3 very difficult time for me as a company. And so for
4 somebody else to say, wow, if Kik did this, they could
5 probably sell \$100 million worth of Kin, it was a
6 validation to me that finally the world was seeing what
7 I was seeing. And that to me, after years of pain,
8 sort of made it all worth it.

9 **Q It was a validation of the vision?**

10 A Validated the vision.

11 **Q And that's, I guess, what I wanted to**
12 **explore. To what extent -- just sitting back now**
13 **and -- what is it, November 2018.**

14 **To what extent is the 100 million sale that**
15 **Kik was able to do versus the 19 to 33 million sales of**
16 **the comparables it's looking at, to what extent was**
17 **that appetite in the market that developed in 2017?**

18 A I'm sorry. What's the question?

19 **Q Sure. I'm trying to understand were you**
20 **guys able to sell more tokens because there was**
21 **increased demand in the market in 2017?**

22 A I would say that was part of it, sure.

23 **Q Okay. Had you tried to approach the**
24 **market, let's say in 2016, don't think you would have**
25 **been able to sell 100 million?**

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1 A We didn't try to approach it in 2016, so I
2 can't say for sure. But if I have to guess, I would
3 say no, we would not be able to.

4 **Q Okay. You would say -- would you agree**
5 **that the timing of the Kin token sale was favorable for**
6 **selling more tokens?**

7 A For selling the tokens at a higher price
8 per token, and therefore, resulting in selling more
9 dollars worth, I would say the timing was perfect.

10 **Q You put that better than I did.**
11 **Would you agree that the market for tokens**
12 **in 2017 was pretty hot?**

13 A I would say that people were realizing that
14 cryptocurrencies were going to be a very exciting
15 thing. And yet at the same time, for the most part,
16 did not understand why.

17 **Q Right. And you've referenced this, that**
18 **you think there were a lot of -- I'm going to put my**
19 **own gloss on this.**

20 **You thought there were a lot of ill thought**
21 **out, poor token projects being put out there in 2017?**

22 A Yeah. I thought there were -- even to take
23 it a step further, there's a large percentage which
24 were just outright scams.

25 **Q Scams, people trying to take advantage of**

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1 **speculation out there in the market?**

2 A Yeah.

3 MR. LEASURE: Let's go off the record.

4 THE VIDEOGRAPHER: This ends Disc Number 2.

5 Going off the record.

6 The time on the video monitor is 3:09 p.m.

7 (A brief recess was taken.)

8 THE VIDEOGRAPHER: This begins Disc
9 Number 3. We are back on the record.

10 The time on the video monitor is 3:19 p.m.

11 BY MR. LEASURE:

12 **Q We're back on the record after a brief**
13 **break during which, Mr. Livingston, did you have any**
14 **substantive conversations about this investigation with**
15 **SEC staff?**

16 A I did not.

17 **Q Okay. So we're talking about circulating**
18 **the idea of a crypto project. We talked about the**
19 **board --**

20 A Uh-huh.

21 **Q -- and discussions with the board.**

22 **How about with Kik employees? Was there a**
23 **process for telling them that you were thinking about**
24 **pivoting the company into a crypto project?**

25 A Yeah. There was a period when nobody at

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1 the company knew that we were going to go into crypto.
2 And now, obviously, everybody knows that we're going
3 into crypto. And there was a process in between for
4 sure, a series of steps to introduce the company to it
5 and get them working on it, and then to where we are
6 today.

7 **Q And I take it you started with maybe some**
8 **people in the executive leadership, and then move on to**
9 **a more general discussion?**

10 A Yeah.

11 **Q Yeah.**

12 A How do you get people to buy into an idea
13 that at first blush is something totally new and
14 different.

15 **Q Right. And did you help facilitate those**
16 **communications, get involved in them?**

17 A I would -- yeah, certainly.

18 **Q Okay.**

19 A I can't remember anything specific, but I
20 would assume so.

21 **Q That's fine. How did people react?**

22 A I don't know. I can't say. And it's hard
23 for me to know because I think -- at some point, by the
24 time we go to the company, my recollection is, like,
25 the leadership team was pretty bought in. And they

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1 were having their own conversations with their people
2 to sort of validate that, you know, is this actually a
3 good idea. Okay. It is a good idea.

4 So I don't remember there being any
5 significant pushback from the company when I spoke with
6 them, but I can't recall exactly.

7 **Q Was there a -- let me back up.**

8 **Within the leadership team, was there**
9 **resistance to the idea of moving to crypto?**

10 A I can't recall specifically. But as a
11 generality, yes, I can recall resistance.

12 **Q What was that based around?**

13 A Just the idea that it was yet another crazy
14 idea that probably wouldn't work.

15 **Q Okay.**

16 A It felt like the general idea.

17 **Q Was there a concern about the effect the**
18 **move to crypto might have on the existing Kik messenger**
19 **app business?**

20 A No. Not to my recollection.

21 **Q Okay. Was there eventually a sit-down**
22 **meeting within Kik?**

23 A I would think so, yes.

24 **Q Sit-downs are how communications are done**
25 **to all Kik employees?**

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1 A Correct.

2 **Q And do you usually participate in those?**

3 A I usually do participate in those, yes.

4 **Q And do you recall -- do you recall a**
5 **sit-down meeting relating to the idea of moving into a**
6 **crypto project?**

7 A I recall us having one. I can't recall the
8 specific meeting.

9 **Q You don't know -- do you know what was**
10 **said?**

11 A I'm sure my memory could be jogged. But I
12 don't remember, other than, "We're doing crypto. It's
13 a great idea. You should be excited."

14 **Q I imagine -- and correct me if I'm wrong.**

15 **If I imagine myself as a Kik employee, I**
16 **imagine one of my questions would be for any project:**
17 **How is this going to lead us to profitability?**

18 A Uh-huh.

19 **Q Was that a common question from Kik**
20 **employees?**

21 A I think a question from Kik employees over
22 the years is: How are we going to make money? And for
23 sure.

24 **Q And was that a question posed in connection**
25 **with the move to crypto?**

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1 A At some point, yes. Like, I think probably
2 first is like, "What is this thing?" So at some point,
3 you know, how is this going to lead to profitability
4 for us would definitely be a question. But I'm not
5 sure at what time, who would ask that. I don't recall
6 somebody specifically asking that, say, at an all-hands
7 meeting.

8 **Q And you provided an explanation for that**
9 **during a testimony today, which is, you know, fixed**
10 **supply of the currency. If demand goes up, our Kik's**
11 **holdings of the currency goes up, and we can sell it.**

12 A Uh-huh.

13 **Q Right?**

14 A Correct.

15 **Q Was that the answer you always conveyed?**

16 A I'm not sure. Like, if I was asked -- I
17 don't recall being specifically asked, so that's why I
18 can't recall specifically answering. I do -- like,
19 even for the board and for the leadership team, never
20 mind the company, like, how this works as a business
21 model is something fundamentally new, right?

22 Like, what do you mean we're going to keep
23 selling pieces of this asset? Like, what happens when
24 the asset runs out? It's, like, good question. You
25 know, by then, it's open decentralized, and you can

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1 walk away. Look, Satoshi did it. Disappeared, and yet
2 it keeps going. But then -- well, then what happens to
3 us? Well, then you're participants in the ecosystem,
4 too. And we can all decide how we want to contribute.

5 Or if we want to move on to something else.
6 It turns out that's sort of a hard answer for people to
7 internalize.

8 **Q Yeah. Can I -- I might not have shown it**
9 **to you, but I think I've seen an e-mail where you had**
10 **the -- maybe just a senior leadership explain, the**
11 **company might not exist once we're done. If the**
12 **project is successful and we profitably sell all of our**
13 **Kin, Kik as a company may no longer need to exist.**

14 A Right. Satoshi Nakamoto disappeared.

15 **Q Right.**

16 A We don't know who he/she/they are.

17 (Discussion off the record.)

18 BY MR. LEASURE:

19 **Q Let me show you a document marked**
20 **Exhibit 107. Take a look at it. And as always, let me**
21 **know when you're ready. I'll ask you what it is.**

22 A Okay.

23 **Q Let me identify it for the record while**
24 **you're reading it.**

25 A Yeah.

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1 **Q It's a multi-page printout of an e-mail**
2 **chain ending March 24th, 2017, dated -- with the Bates**
3 **stamp KIK 26624.**

4 A Okay.

5 **Q What is this document?**

6 A I think this is me -- I'm not sure when --
7 it's not listed here, but when I sent the original
8 e-mail. I see that I forwarded it March 24th.
9 Usually, there would be a date on a thread like this.
10 But let's assume it's roughly around then. I think,
11 you know, despite Fred's endorsement, despite Erin's
12 endorsement and own independent research, there was
13 still, from my recollection, skepticism on the
14 leadership team at this point.

15 And so this is me trying to dumb it down as
16 much as possible so that people understand what we are
17 talking about and how it would work.

18 **Q Got it. A few names and people before we**
19 **get into the substance of it.**

20 A Uh-huh.

21 **Q The initial e-mail, which I think might**
22 **have a date. It's -- do you see March 24th, 2017,**
23 **there?**

24 A You're right. Sorry. I see it now.

25 **Q That's sent to leadership team, which has**

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1 an e-mail address, exec@kik.com. I take it that's
 2 senior managers --
 3 A Yeah. That's the leadership team
 4 distribution list.
 5 Q People like Ben-Ari, Clift?
 6 A Yep.
 7 Q Okay. And that's you, as you say, trying
 8 to present in a -- I don't want to say dumbed down, I
 9 feel like that would be rude to say -- in a simplified
 10 format the vision you had?
 11 A Yeah. The goal of this was to help them
 12 understand as much as possible, like, what this option,
 13 what the idea was.
 14 Q Got it. And you ultimately forwarded it to
 15 a person named Hubert?
 16 A Hubert, yeah. He was my CEO -- is my CEO
 17 coach.
 18 Q Oh, understood. Okay. Very good.
 19 Did he have a role in the Kin project,
 20 other than just being your coach?
 21 A He had a major role in helping me turn
 22 around the company from a leadership point of view.
 23 And so I sent this to him because, like, I was
 24 explaining do him that I thought there was this other
 25 way, and how can I get the leadership team on board.

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1 And so when I highlighted here, I said -- like, my
 2 recollection, I'd forward it to him and be like, "Hey,
 3 this could be a helpful context as you helped me turn
 4 around the leadership of the company."
 5 Q Got it. And you're looking for coaching
 6 and ideas on leadership issues with --
 7 A Correct.
 8 Q With a tough task, I take it.
 9 A Yeah. Turning around a failing consumer
 10 company is a very tough task.
 11 Q I've never done it, but I believe you.
 12 You write -- let's go to the substance of
 13 what you write to the leadership team. Okay?
 14 A Okay.
 15 Q You write, "Hi, all. I had a chance to
 16 sync with a few of you about the crypto meeting on
 17 Wednesday."
 18 Any of that ring a bell, the crypto
 19 meeting?
 20 A I assume it was like a meeting to discuss
 21 doing cryptocurrency. I can't remember specifically,
 22 but that would be my guess.
 23 Q You write about themes you heard. Going
 24 down to the one where you write, "The other theme I
 25 heard was that there is still some ambiguity around the

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1 vision for crypto and how it'd fit into Kik."
 2 Do you see that?
 3 A Yep.
 4 Q I take it -- that seems to be consistent
 5 with your recollection that people just had some
 6 confusion or not really -- not clarity around the
 7 vision yet.
 8 A It was and is a very big idea, and at first
 9 is very hard for people to get their heads around,
 10 especially, you know, almost, like, a year and a half
 11 ago or almost two years ago, whatever this is.
 12 Q Sure. And as you said, this is you trying
 13 to put the vision down on paper?
 14 A Yes. This is me trying to dumb it down as
 15 much as possible. I see I actually I did use the term
 16 there as well.
 17 Q You're right. So I can use that phrase
 18 as well.
 19 Let me point you to the second page where
 20 there is some substance. On page 26625, you're there.
 21 A Yep.
 22 Q You write, "Why would we do this?" And you
 23 give three reasons. Do you see that?
 24 A Yep.
 25 Q And I don't want to read every single word

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1 here, but it looks like the three reasons you wrote
 2 are: One, it is a way to raise money to fund
 3 development.
 4 A Uh-huh.
 5 Q Two, it is a new way to monetize a
 6 community. And three, it is a way to unite the
 7 community to work together to build the best community
 8 possible.
 9 A Uh-huh.
 10 Q I'll just pause there. Were those -- were
 11 those the reasons from Kik's perspective to do the
 12 token project?
 13 A I would -- if I could go back and -- maybe
 14 not if I could go back. If I were to reword one, it is
 15 a way to get money to fund the development is what I
 16 would change it to. You know, definitely, two, we
 17 talked about a lot. Three, we talked about a lot as
 18 well.
 19 Q Uh-huh.
 20 A But we were also spending money. And if we
 21 didn't get more money, we would go bankrupt and none of
 22 this would happen. So -- and the leadership team at
 23 the time was very focused, obviously, on our cash
 24 balance. As it declined, as we got closer to going
 25 bankrupt, like, all anybody wanted to talk about was,

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1 like, how are we not going to go bankrupt. And so when
2 I look at this first one, crypto was such a new thing
3 that it was hard for people to understand, and so --
4 you know, traditionally, you either sell advertising or
5 you sell things. That would be revenue.

6 Or your other option is to raise investor
7 money through an equities offering. So those are the
8 only two pieces of context the leadership team would
9 have. Now there was a third, which is create a new
10 currency, sell some of that currency, and use the money
11 from that sale to fund development.

12 **Q Got it.**

13 A So that would be my only -- when you say
14 are these the three reasons, sort of would be my
15 answer. You know, it's a new way to monetize a
16 community. It's a new way to work together. These
17 actually to me were the most important things. But at
18 the time, it's also a way to sell an asset to get the
19 money to fund development.

20 **Q Got it. You -- before, when we were**
21 **talking, you had a problem with using the term "raising**
22 **money" in the context of the Kin token sale.**

23 A Uh-huh.

24 **Q I take it that's because you didn't see it**
25 **as, like, a raising of money from investors as much as**

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1 A Because I think development -- again,
2 getting back to sort of an equity raise, development is
3 like, "Oh, we're going to go do something." But on
4 day one, we created this cryptocurrency that existed on
5 the Ethereum blockchain that anybody could access, use,
6 integrate, and improve upon, evangelize, set up
7 programs for. So it's not a way to raise money.

8 It's a way to sell a piece of the asset
9 that we own. And it's not a way to fund development.
10 It's a way to fund our participation in the ecosystem.

11 **Q Kik being one person who will build out the**
12 **ecosystem, not the only; is that your idea?**

13 A Kik being one person entity building things
14 in the ecosystem for the benefit of itself, but because
15 of the way cryptocurrencies work, also for the benefit
16 of everybody else.

17 **Q Do you think it was expected that Kik**
18 **would -- do you think the people who bought Kin tokens**
19 **in the TDE expected that Kik would use the money they**
20 **gave Kik to help develop the ecosystem?**

21 A I think people's -- I can't say what
22 people's expectations were. But what their
23 expectations should have been is that as a holder of
24 3 trillion of the 10 trillion Kin, we would do
25 everything in our power to increase the demand as much

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1 **a sale to fund the project?**

2 A I'm sorry. What's the question?

3 **Q You had a problem with the idea of raising.**

4 A Yeah.

5 **Q Calling this a "money raise."**

6 A Yes.

7 **Q Why is that?**

8 A Because when you use the word "raise,"
9 it -- people would think, "Oh, a raise, like a
10 traditional equity raise. Oh, is this an equity raise?
11 Does this come with all the rights of an equity raise?"
12 So I don't have a problem actually with the word
13 "raise." I have a problem with the definition it
14 infers in many people's minds.

15 **Q So you prefer this to say -- I just want to**
16 **make sure it's clear. You'd prefer this to say for**
17 **Reason 1, why we would do this is: It is a way to sell**
18 **tokens to fund development?**

19 A I would say, even tweak it --

20 **Q Yeah.**

21 A -- it is a way to create a new currency,
22 sell a piece of it to fund our participation in the
23 ecosystem.

24 **Q Not fund -- okay. So we covered the raise**
25 **part. Why is "fund development" not the right term?**

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1 as possible in our own selfish interest, but then that
2 they would benefit from that as well. But that would
3 be also true of everybody in the ecosystem.

4 **Q Fair enough. Okay. I can offer a kind of**
5 **absurd hypothetical. Let's say Kik sold 100 million**
6 **worth of Kin and then just walked away with the**
7 **money --**

8 A Uh-huh.

9 **Q -- or threw the best party in the history**
10 **of tech companies, the 100 million is gone.**

11 **Do you think that would have been**
12 **inconsistent with the understanding of what Kik would**
13 **do with the proceeds of the sale?**

14 A I think it would be just, like,
15 counterintuitive of why would Kik not act in their own
16 best self-interest. With that said, let's take your
17 hypothetical and that did happen.

18 **Q Uh-huh.**

19 A There are 10,000 people all around the
20 world who owned a piece of Kin who would be very
21 incentivized, and this is the power of
22 cryptocurrencies, to make Kin work regardless of what
23 Kik did. If we take your hypothetical and we threw
24 \$100 million party and said, "That was it. Sorry.
25 We're shutting down the company," there would be over

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1 10,000 people in the world who owned a piece of this
 2 currency that said, "Damn, I don't know why they did
 3 that. That was really stupid. But we need to make
 4 this Kin thing a success because we all own a piece of
 5 this." And that is the power of cryptocurrencies.

6 **Q Okay. Maybe we'll turn more to that in a**
 7 **bit. On this Item 1, the last two sentences of it --**

8 A Item -- yes. Bullet one. Okay.

9 **Q So Item 1 is a way to raise money to fend**
 10 **development --**

11 A Uh-huh.

12 **Q -- to fund development. And then the**
 13 **second-to-last sentence reads, "The value proposition**
 14 **to investors is if they buy in today at the ICO, and**
 15 **then the demand for the currency goes up because of all**
 16 **the things we do to create demand for them, then they**
 17 **will be able to sell their points at a higher price in**
 18 **the future and make a return."**

19 Do you see that?

20 A I do.

21 **Q We've talked today about increased demand**
 22 **and increased price. Is this -- is what you wrote here**
 23 **in March an accurate statement of the value proposition**
 24 **being offered?**

25 A I would say that I was trying to -- I can't

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1 **demand," you would say instead it's "all the things**
 2 **everybody will do"?**

3 A If I were to do this today, I would say
 4 there's many different reasons people buy
 5 cryptocurrencies. Some reason that some people buy
 6 cryptocurrencies is purely as a speculative
 7 proposition.

8 **Q Yeah.**

9 A For those people, they're betting on that
 10 the efforts of all of these different people, because
 11 of the incentive, because of the crypto economics,
 12 because of the way that this is all set up, they're
 13 betting that demand is going to go up as one
 14 constituency in this broader ecosystem, which exists in
 15 every cryptocurrency.

16 **Q The last sentence reads, "The money taken**
 17 **in from investors for the ICO is used by Kik to fund**
 18 **development to create more and more demand by both**
 19 **growing the community and by growing the demand for the**
 20 **currency within the community."**

21 **Is this accurate?**

22 A I think what I was trying to get across
 23 here is we sell some Kin token. That sale generates
 24 revenue. What do we do with that revenue? The
 25 smartest thing to do from a purely financial point of

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1 recall for sure. But if I were to guess, I was trying
 2 to explain in as familiar terms as possible why people
 3 might buy a cryptocurrency. Like, the fundamentals of
 4 crypto economics are fixed supply. Demand goes up,
 5 price goes up. That's why we all worked together, yet
 6 independently, to make it more valuable.

7 So when I look at this, if you buy a
 8 cryptocurrency today, any cryptocurrency, and then the
 9 demand for that cryptocurrency goes up because of all
 10 of the things we do -- but "because of all of the
 11 things everybody does" is what this should say -- then
 12 if by all those independent efforts the demand goes up
 13 -- you know, maybe Kik does something and it doesn't
 14 create demand at all.

15 But maybe somebody in Zimbabwe does
 16 something that creates this demand in what, we don't
 17 know, that's the power of it -- then demand goes up.
 18 If demand goes up, the price will be able to go up.
 19 And so if the price goes up, you know, you own a piece
 20 of this currency you bought for less money yesterday,
 21 and now it's worth more money today, then you've had a
 22 financial gain.

23 **Q So if you were to -- sitting here today, if**
 24 **you were to publish this sentence, the correction you**
 25 **would make is to "all the things we do to create**

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1 view, from Kik's perspective, is to try to grow -- do
 2 everything they can to grow demand, real demand for
 3 that currency, which increases the value of its
 4 currency, increases the value of everybody's currency.

5 And that is what is in everybody's best
 6 interest in the ecosystem.

7 **Q Right.**

8 A Everybody is trying to selfishly grow the
 9 demand of Kin for themselves. But in doing so, they're
 10 also growing demand for everybody else.

11 **Q Right. And we've talked about that.**
 12 **That's part of the -- skin in the game isn't accurate,**
 13 **but the win-win-win, that Kik has the same incentives**
 14 **as other people to grow this currency out?**

15 A That is a fundamental of how
 16 cryptocurrencies work. And that's -- that is the basis
 17 for why cryptocurrencies are so exciting.

18 **Q Got it. And in the context of this e-mail,**
 19 **you're trying to explain that to maybe skeptical or**
 20 **concerned --**

21 A And people who don't know crypto at all,
 22 don't know anything about crypto. And so trying to
 23 explain it in terms that help them understand, even if
 24 they are ultimately incorrect terms.

25 **Q Okay. Let me point you to the third page**

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1 of this. That's on Bates stamp 26626.
 2 A 26626. Okay.
 3 Q Okay. There's a section that says, "So how
 4 do we get this launched?"
 5 A Yep.
 6 Q I see three streams.
 7 A Yep.
 8 Q And there's three new bullets. Let me just
 9 summarize these using the first sentence and see if
 10 you're with me. One, "We need to market it." Two, "We
 11 need to create demand for it." And three, "We need to
 12 set up the infrastructure."
 13 A Okay.
 14 Q Is this an accurate -- sitting here today,
 15 do you think that's an accurate, at a high level,
 16 summary of what is needed to get the Kin project
 17 launched?
 18 A I think the only thing we would need to do,
 19 going back, like -- you know, this is we're trying to
 20 figure out what we actually need to do. But looking
 21 back today, what did we actually need to do? We needed
 22 to create it, and we needed people to buy it because
 23 that's what sets up the incentives for people to
 24 independently grow the value of their Kin, and that's
 25 what creates this whole snowball effect.

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1 Q So you didn't need to create demand for it?
 2 A Creating demand for it, doing everything in
 3 our power to create demand for it, would increase the
 4 odds -- increase the rate of demand growing, and
 5 therefore, was in our best interest. But if you asked
 6 me: Did we need to do it? My answer would be no.
 7 Q Okay. But you are doing that?
 8 A Yeah. We're doing that because we're
 9 rational actors in the ecosystem.
 10 Q Okay. And the infrastructure, we talked a
 11 lot about the infrastructure development that I think
 12 took place after the TDE.
 13 That has been happening, correct?
 14 A So, again, this was very early.
 15 Q Sure.
 16 A If I go back today, would we need to set up
 17 the infrastructure? No. We need to create a
 18 cryptocurrency. We explain our vision for the
 19 cryptocurrency. Like, if you were to join this
 20 project, here is what you are trying to achieve with
 21 the rest of the community. And that's it.
 22 Like, literally, in your hypothetical,
 23 everybody on Kik Interactive is off to celebrate
 24 something. They're on a plane, the plane crashes.
 25 What are the odds that Kin is successful? What would

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1 happen? 10,000 people around the world would say,
 2 "We've got to make this thing work with or without all
 3 of those Kik employees." And that's the power. It's
 4 open sourced. It's decentralized. Anybody can
 5 contribute. And they are contributing out of their own
 6 selfish needs.
 7 So why doesn't Kik do that? Because
 8 Facebook is coming. And we, like everybody else, want
 9 to maximize the odds that Kin becomes the most used
 10 cryptocurrency in the world. So we are doing our part.
 11 Q Let me push you a bit on that.
 12 A Sure.
 13 Q I'm not sure I agree, but I could hear the
 14 argument more for the demand generation. Anyone -- I
 15 can evangelize, right? I can set up a blog and
 16 evangelize a cryptocurrency and say it's the next best
 17 thing, and we're going to beat Facebook together.
 18 A Okay.
 19 Q I'm not sure I could do all of the things
 20 you were talking today about infrastructure, blockchain
 21 developments. I'm not sure what 10,000 people
 22 desperately -- I certainly could not. I can barely use
 23 my phone.
 24 A Yeah.
 25 Q I'm not sure what 10,000 desperate people

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1 could do the blockchain developments that Kik's
 2 engineers are working on right now. But it's your view
 3 that they could and, in the absence of Kik, are just as
 4 likely to do so?
 5 A I think my view is that by Kik not doing
 6 it, it definitely would slow the progress of the
 7 ecosystem down. Just like if you removed any
 8 participant from the ecosystem, you would be taking out
 9 their contribution. I think Kik made a big
 10 contribution. But we saw many people in our
 11 communities identifying, reaching out, and selling
 12 developers to integrate Kin.
 13 So, like, you couldn't do it. But if you
 14 held Kin, you'd be very incentivized to tell your
 15 friends and family, "Hey, this Kin thing, you've got to
 16 look into it. It's the best thing ever." Any
 17 developer you knew, "Oh, I hear you have an app.
 18 You're struggling. You should look at Kin."
 19 Like, that's the power of this whole thing,
 20 is you have an army of people who are economically
 21 aligned.
 22 Q Even on the infrastructure thing?
 23 That's what I was pushing you on.
 24 A So on the infrastructure, Kik -- Kin was an
 25 ERC-20 token up and running on the infrastructure in a

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1 way no different than Ether itself.
 2 **Q But could -- go ahead. I didn't want to**
 3 **interrupt you.**
 4 A I was done.
 5 **Q Oh, okay. The part I'm having trouble with**
 6 **is picturing -- I didn't want to do a plane crash --**
 7 **Kik just stops supporting the project.**
 8 A Yep.
 9 **Q No one is dying in a plane crash, please.**
 10 **But Kik stops supporting the project --**
 11 A You made that hypothetical, though.
 12 **Q No, I didn't make that hypothetical.**
 13 **Kik stops supporting the project. 10,000**
 14 **desperate people handle the Stellar fork issues that we**
 15 **were describing, the transfer of tokens from the**
 16 **Ethereum to Stellar --**
 17 A Where Kin would be if everybody at Kik was
 18 on a plane and died? Which is the hypothetical I'm
 19 going to use. Okay? So I'm on that plane, too, so
 20 don't worry.
 21 **Q Go ahead.**
 22 A Not in my best interest in this
 23 hypothetical.
 24 **Q No.**
 25 A Kin would be in no different a place than

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1 where Ethereum is today.
 2 **Q Oh, I see your point.**
 3 A It is on the -- it is a currency on the
 4 exact same infrastructure. You're right. So nobody
 5 uses Ethereum. And Ethereum is like -- that community
 6 is trying to figure it out, what are we going to do.
 7 In the same way, our community would try to figure it
 8 out, what are we going to do. They haven't been
 9 thinking about it for a year, so they probably couldn't
 10 make the progress that we at Kik could if we were a
 11 participant with them in ecosystem.
 12 But like Ethereum, they would make
 13 progress, it would be just be much slower.
 14 MR. SCHLEGELMILCH: Isn't it fair to say,
 15 though, that at the moment -- the moment after the
 16 TDE -- the moment after the token distribution event,
 17 the lion's share of maybe all of the development work
 18 is being done by Kik?
 19 THE WITNESS: I would say that Kik was for
 20 sure the most active participant in the Kin ecosystem,
 21 yes.
 22 MR. SCHLEGELMILCH: Are you aware of any
 23 other participant in the Kin ecosystem sort of the
 24 minute after the TDE?
 25 THE WITNESS: I don't have any specific

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1 names.
 2 MR. SCHLEGELMILCH: Okay.
 3 MR. MENDEL: You said that you saw people
 4 sell to developers. What examples were you thinking of
 5 in that respect?
 6 THE WITNESS: Where did I say that? Sorry.
 7 I don't remember the context.
 8 MR. MENDEL: This was a few minutes ago. I
 9 think you said -- sorry if I have this wrong. I think
 10 you said that you saw people sell Kin to developers.
 11 THE WITNESS: So people evangelized Kin to
 12 developers, yes.
 13 MR. MENDEL: What examples did you have in
 14 mind for that?
 15 THE WITNESS: Just seeing it in our Reddit
 16 community, people saying, "Hey, what do you think about
 17 this partner? I reached out. We think it could be
 18 good." "What about this partner? I sold these
 19 partners on this. These people should reach out."
 20 I would get -- I believe I have gotten
 21 e-mails from people, like, "Hey, I talked to this
 22 person. You guys should connect. They want to build
 23 something." Like, that's the power of this thing. You
 24 have 10,000 people who are economically aligned to all
 25 work in their self-interest, but in doing so, work

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1 together.
 2 MR. MENDEL: And when did you see the
 3 conversations on Reddit that you mentioned?
 4 THE WITNESS: Throughout the history of
 5 Kin. Like, even before we did a token sale. I would
 6 come up -- like, people would come up to me after
 7 conferences, like, "Hey, I'm a developer. I'm
 8 struggling. Your story resonates with me." This story
 9 of struggling is not a unique story.
 10 Everybody in the consumer apps base is
 11 struggling. And so to see the CEO, the founder/CEO of
 12 a billion dollar company, get up in front of an
 13 audience and admit that to them is something they have
 14 never seen before. And then they come up to me and
 15 they say, "I can't believe you said that. You're the
 16 most honest person I've ever met to actually say this
 17 on the record in front of an audience. I'm struggling
 18 in this exact same way you are. Nowhere near the scale
 19 you are. I want to be part of this."
 20 MR. MITCHELL: So if I can just follow up
 21 on Stephan's question. At the time of the token
 22 distribution event or any time before then, was there
 23 anyone else -- were there any other apps other than Kik
 24 that were -- that had said publicly, "We're going to
 25 use Kin tokens in our app"?

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1 THE WITNESS: I can't remember
2 specifically. But I do know we worked with partners
3 that were integrating Kik Points and were very
4 interested in Kik -- integrating Kik Points.

5 So there's no reason to me -- Kik Points
6 is -- Kin is just Kik Points but with a business model
7 attached, a better business model.

8 MR. MITCHELL: And I'm sorry. Did any of
9 those companies say that publicly?

10 THE WITNESS: I can't remember.

11 MR. MITCHELL: Do you remember any of them
12 saying it publicly?

13 THE WITNESS: I can't remember.

14 MR. MITCHELL: Do you remember what
15 companies you're thinking?

16 THE WITNESS: That did Kik Points?

17 MR. MITCHELL: That you're thinking of
18 right now, yeah, that worked --

19 THE WITNESS: I'm literally not thinking of
20 any company right now.

21 MR. MITCHELL: Okay.

22 THE WITNESS: It was a long time ago, so I
23 don't have a specific list in my head.

24 MR. MITCHELL: I guess I'm just trying
25 to -- the plane crash hypothetical --

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1 the Kin Rewards Engine described in the white paper
2 other than Kik and the Foundation?

3 THE WITNESS: If everybody at Kik had
4 crashed in a plane crash, then the private keys that
5 together unlock the 3 trillion and 6 trillion Kin owned
6 by Kik and Kin Foundation respectively would forever be
7 lost, and the 1 trillion Kin remaining would be the
8 only Kin in existence.

9 MR. MITCHELL: Okay. But the white paper
10 discusses a Kin Rewards Engine, right?

11 THE WITNESS: Uh-huh.

12 MR. MITCHELL: Was that an important part
13 of the plan?

14 THE WITNESS: I would say that was an added
15 but ultimately unnecessary feature to Kin. Why?
16 Ethereum doesn't have a Kin Reward Engine, and yet,
17 lots of people are building applications for it.

18 MR. MITCHELL: I'm sorry. Was -- did you
19 always think that the Kin Rewards Engine was an
20 unnecessary part of the plan?

21 THE WITNESS: When I say "unnecessary" --
22 maybe what do I mean by "unnecessary." We have a --
23 we're a fan of this thing called the parallel universe
24 test. In one universe, you do it this way; in one
25 universe, you do it that way. What are the potential

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1 THE WITNESS: Uh-huh.

2 MR. MITCHELL: -- I'm just trying
3 understand. Were there points that, you know, during
4 the time that Kik was offering the Kin tokens, that it
5 identified, Kik told people, you know, "It's us. We're
6 going to be working on this. And also, here's a list
7 of other people who are going to be working on this"?

8 THE WITNESS: Not to my recollection.

9 MR. MITCHELL: It was just Kik and the Kin
10 Foundation that's mentioned in the white paper?

11 THE WITNESS: Correct. I think -- I think
12 that's correct.

13 MR. MITCHELL: And who -- and the Kin
14 Foundation, when it was created, was -- the directors
15 were you and Kik's CFO?

16 THE WITNESS: Correct.

17 MR. MITCHELL: And so if -- again, leaving
18 aside the plane crash. If Kik had just said, "We're
19 not doing anything more here," could any of those
20 10,000 people have taken over the Foundation and -- do
21 they have the rights to take over the Foundation and
22 get the 6 trillion Kin?

23 THE WITNESS: They did not.

24 MR. MITCHELL: So could they have run the
25 Kin Rewards Engine -- could anyone else have created

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1 different outcomes from each of those universes?

2 Kin without a Kin Reward Engine would
3 basically be Ethereum or Bitcoin, with one difference
4 that one company that said, "Hey, we are going to
5 integrate this Bitcoin," was Kik. But ultimately, all
6 of these people die in a plane crash.

7 So at that point, it would be no different
8 than Bitcoin and Ethereum. If 10,000 people around the
9 world owned and purchased for \$100 million almost,
10 Bitcoin II and, you know, Satoshi disappeared, they
11 would make it work. In fact, that's what happened with
12 Bitcoin.

13 But the world where the Kin Reward Engine
14 does run, I believe, would greatly accelerate the rate
15 of growth of the ecosystem. So it is unnecessary for
16 the ecosystem to operate, but it is an advantage.

17 MR. MITCHELL: And Kik talked up that
18 advantage in the white paper?

19 THE WITNESS: Yeah. How could we talk
20 about this being a fundamentally new business model for
21 developers without there being a Kin Reward Engine?

22 MR. MITCHELL: One of the points here is if
23 a developer helps create demand for Kin tokens, it gets
24 paid out of the Reward Engine?

25 THE WITNESS: Correct.

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1 MR. MITCHELL: So that was talked up in the
2 white paper. Was that also -- did you talk it up in
3 speeches you gave --
4 THE WITNESS: I would say that was one of
5 the innovations of Kin, is that we proposed having this
6 feature, for sure.
7 MR. MITCHELL: Okay. And, again, the
8 people who control that Rewards Engine were either Kik
9 or the Foundation?
10 THE WITNESS: Yeah. And the Foundation was
11 controlled by Peter and myself.
12 MR. MITCHELL: And then earlier, we talked
13 about the idea that there was a technical problem with
14 running a commercial -- an at-scale public -- I'm
15 sorry. Let me start over.
16 Earlier, we talked about the idea that
17 there was a difficulty for Kik to run an at-scale
18 thousands or millions of people involved transactions
19 on the Ethereum blockchain.
20 THE WITNESS: Uh-huh.
21 MR. MITCHELL: Okay. Was that a special --
22 like, was that a Kik-specific problem or would anyone
23 trying to run a large scale set of transactions have
24 that problem on the Ethereum blockchain?
25 THE WITNESS: No it was an -- was and is an

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1 industrywide problem.
2 MR. MITCHELL: So under the hypothetical we
3 were talking about, the 10,000 people, if they were to
4 do this, would need to sort of somehow coalesce and do
5 the work that Kik is doing?
6 THE WITNESS: There are many blockchain
7 projects today that are focused on allowing for
8 swapping Ethereum tokens to other blockchains where
9 they're more scalable. Ethereum itself is working on
10 its own scalability solutions.
11 MR. MITCHELL: Ethereum -- does Ethereum
12 have a process for voting where Ethereum holders can
13 vote and sort of control sort of the blockchain
14 technology or other sort of fundamental questions?
15 THE WITNESS: Not to my knowledge.
16 MR. MITCHELL: So how are people doing
17 that -- how are people addressing those problems?
18 THE WITNESS: What's the question? How are
19 developers working on Ethereum?
20 MR. MITCHELL: You were saying that people
21 are working on Ethereum and trying to improve the
22 throughput or improve the ability to run a commercial
23 business on it. How are they doing that if --
24 THE WITNESS: I do not know the details,
25 but I assume they are looking at the open source

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1 project and proposing new pieces of code to that
2 project.
3 MR. MITCHELL: I think you've lost me on
4 the technology stuff. I don't think I can ask that
5 much.
6 BY MR. LEASURE:
7 **Q An entity we referenced before, CoinFund.**
8 A Uh-huh.
9 **Q Kik hired CoinFund?**
10 A Correct.
11 **Q What did Kik hire CoinFund to do?**
12 A From my point of view, at least initially,
13 to help validate that this was a good idea.
14 **Q And validate in what way?**
15 A Validate in the way that it wasn't just Ted
16 who believed this could work, but it was also -- that
17 this cryptocurrency could work, but also many people
18 who were deeply involved with other cryptocurrencies
19 themselves.
20 **Q Did it validate -- as part of its work, was**
21 **CoinFund tasked with validating whether people would**
22 **want to buy a token sold by Kik?**
23 A Yep.
24 **Q Okay. And they did a market analysis for**
25 **Kik?**

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1 A I don't know specifically what they did,
2 but I'm assuming they surveyed people in the industry.
3 "You're buying cryptocurrencies. What if a
4 company launched a cryptocurrency? What would you
5 think?"
6 **Q Did Kik use the analysis CoinFund provided?**
7 A I'm sure we did. Like, I remember there
8 was a report. I don't remember reading the report.
9 But I definitely remember different people referencing
10 it in different ways at different times.
11 **Q What did they say?**
12 A I -- like, to me, the punch line of the
13 report was this was a good idea. That's sort of where
14 I stopped paying attention.
15 **Q So I just want to make sure I'm**
16 **understanding that. From your perspective, it was to**
17 **make sure there was a green light showing that**
18 **validated the idea from a market perspective?**
19 A Yes.
20 **Q Okay. And that would also help you in -- I**
21 **don't want to say demonstration effect, but that would**
22 **help you to persuade maybe reluctant or skeptical**
23 **stakeholders in Kik, the company, that they should**
24 **proceed?**
25 A Correct.

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1 **Q Including board members?**

2 A Correct.

3 **Q Okay.**

4 A That was one piece of ammunition for why
5 this was a good idea.

6 **Q Okay. What did you think about hiring
7 them?**

8 A What did I think about hiring them? I
9 don't recall having any specific thoughts. But my
10 general state of mind, I think, at the time is anything
11 that helps demonstrate from an independent third-party
12 point of view, that they agree with me, that this is a
13 good idea. It can only be helpful.

14 **Q Did you ever have reason to question the
15 quality of their work?**

16 A I think maybe the question is, like,
17 quality of their work. I think different people then
18 and now have their own interpretations and
19 understanding of what crypto was. So in terms of
20 quality of the work, it's not like this is like a
21 scientific experiment where there's only one truth.

22 This is different people interpreting how
23 they look at what this crypto thing is and is going to
24 become. So quality of work, I thought they were smart
25 enough people. I thought they had interesting

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1 perspectives. I don't recall agreeing with all of
2 their perspectives. I don't have any recollection of
3 any specific disagreement.

4 But, like, you know, quality of work, it's
5 not like these guys are building a car. It's like
6 they're trying to explain what they think is this
7 fundamentally revolutionary new technology is and is
8 going to do.

9 **Q That's fair. I can appreciate that. And I
10 appreciate there's a lot of uncertainty at the time
11 about the market and how Kik would approach the market,
12 right?**

13 A Uh-huh.

14 **Q So let me take out quality of the work.
15 Did you ever have reason to question their competence?**

16 A No.

17 **Q Okay. How about to extent they did market
18 analysis or survey? Did you ever have reason to
19 question the integrity of the results they provided?**

20 A Nothing jumps to mind specifically.

21 **Q Did you ever -- did you ever call or
22 consider CoinFund to be the Goldman Sachs of ICOs?**

23 A I didn't recall it until last week. But as
24 of last week, I saw an e-mail where I did say that,
25 yes.

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1 **Q Okay. Do you have any idea what you --
2 what -- did you mean that?**

3 A I think what I meant by that is there's
4 people who sell equities. There's people who help
5 people sell equities. The brand name firm of the
6 people who help people sell equities is Goldman Sachs.
7 There are people who sell cryptocurrencies. There are
8 people who help people sell cryptocurrencies.

9 And the brand name for them today in this
10 very new industry is CoinFund.

11 **Q Sure. That they were, in this space, a
12 good brand name for helping people sell tokens?**

13 A Correct.

14 **Q Okay.**

15 MR. MITCHELL: To the extent that CoinFund
16 did a survey, at any point, did anyone at Kik ask them
17 to sort of redo it or fix the survey or anything, raise
18 problems with it and make people redo to it?

19 THE WITNESS: I wasn't that involved, so
20 not -- I wasn't that involved in the survey, so not my
21 recollection.

22 MR. MITCHELL: And did Kik hire anyone
23 other than CoinFund to do research about the market or
24 the potential market for tokens?

25 THE WITNESS: Not that I can recall.

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1 BY MR. LEASURE:

2 **Q We see -- I don't need to walk through
3 document by document. But we see references, right
4 after CoinFund started doing its work, to a working
5 session meeting CoinFund may have had in New York in
6 February of last year. The document suggests that Kik
7 may have presented sort of its overall business to
8 CoinFund.**

9 A Uh-huh.

10 **Q Does any of that ring a bell for you?**

11 A It does not.

12 **Q Okay. Do you remember meeting in person
13 with people from CoinFund at any point?**

14 A I definitely met people from CoinFund in
15 person.

16 **Q Like Jake Brukhman?**

17 A Yep.

18 **Q His name rings a bell?**

19 A Yep.

20 **Q Okay. Do you know -- in connection with
21 the analysis or research they were doing, do you recall
22 meeting with them?**

23 A I think we met with them for lots of things
24 over time. I don't recall specifically meeting with
25 him about the research.

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1 Q Okay. I'm going to show you what I
2 understand to be the research.

3 A Okay.

4 Q Just walk you through a bit of it. I'm
5 showing you a document that's previously been marked as
6 Exhibit 39. Take a moment. Take a look at it. I'll
7 identify it for the record as a multi-page document
8 that appears to have the title "CoinFund Token
9 Integration Research and Proposed Economics." It has a
10 date March 21st, 2017, and a Bates stamp CoinFund 7691.

11 A Uh-huh.

12 Q You won't be surprised to know my first
13 question is: What is this document?

14 A This document appears to be a research
15 report generated by CoinFund for Kik.

16 Q Did you read this document at the time?

17 A I don't recall reading this document at the
18 time.

19 Q Okay. Just curious. Why not? Because
20 you're busy? Because this didn't interest you? Some
21 other reason? Why didn't you read this?

22 A Because at the time, there was a lot going
23 on at the company at the time. It was a very stressful
24 time. And from my point of view, the purpose of this
25 document was to convince people that this was a good

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1 things, see if it jogs any recollection.

2 A Sure.

3 Q Page 19, that has Bates stamp 7709. It
4 begins with: "CoinFund Crypto Investor Survey." I'll
5 just read the first sentence. "Methodology. Working
6 together with the Kik team, CoinFund conducted a public
7 and open-sourced survey in the blockchain research and
8 investment community, targeting the set of people who
9 are knowledgeable and experienced in the issues
10 surrounding blockchain-based decentralized crowd
11 funding and known as crypto investors."

12 Let me pause there. Did you have anything
13 to do with this survey?

14 A Not to my recollection.

15 Q What do you know about this survey, if
16 anything?

17 A My best recollection is Erin worked with
18 CoinFund to try to get as much data as possible to
19 validate that this was a good idea.

20 Q And this was a -- that's Erin Clift working
21 with CoinFund?

22 A Correct.

23 Q And who was -- who was being targeted by
24 the survey, if you know?

25 A I assume -- I do not know, but I assume

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1 idea -- to help them understand why this was a good
2 idea. I didn't need to understand further why this was
3 a good idea. A summary of, "Yep, Ted, CoinFund also
4 thinks this is a good idea," was sufficient for me for
5 what I needed.

6 Q Did you get that summary?

7 A I don't recall getting that summary.

8 Q Do you suspect you did at some point?

9 A I don't recall somebody saying, "Hey, the
10 CoinFund research suggests that this is not a good
11 idea."

12 Q You might recall that if --

13 A I think I would recall that, yes.

14 Q Okay. So extrapolating from what you're
15 saying, you may not have read through this because you
16 were busy and because you had heard in some form that
17 they were green lighting the concept?

18 A Green lighting, I'm not sure --

19 Q Let me change that term.

20 A Yeah.

21 Q That they weren't telling you this was a --
22 they weren't telling Kik this was a terrible idea, that
23 Kik should not proceed?

24 A Correct.

25 Q Okay. Let me just point you to one or two

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1 people who are buying other cryptocurrencies and were
2 involved in the crypto industry.

3 Q Okay. Did you ever see results that came
4 out of this survey?

5 A I don't remember specifically seeing any
6 results. I don't remember specifically reading this.

7 Q Sure.

8 A But I do know that things were pulled out
9 of this now and then to help tell the narrative to
10 other people who had to understand what we were doing
11 and why it was a good idea.

12 Q Okay. Did you ever have reason to question
13 the methodology of the survey?

14 A Honestly, I really wasn't paying attention
15 to the survey at all.

16 Q I don't want to keep reading it.

17 A Like, there was a survey. It's not a bad
18 idea. Check. Okay. Cool. Onto the next thing.

19 Q Moving on.

20 A Moving on. Because I had been waiting for
21 this moment for seven or eight years, whatever it was
22 at the time, and I was no longer -- I could see it
23 rolling. I knew it was going to go. And now it was
24 make it happen before the company runs out of money.

25 This is my dream. I want to go for it.

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1 We're going to go for it here. This is going to be a
2 win-win-win. It's going to be amazing. But if we go
3 bankrupt, none of it is going to matter.

4 MR. MITCHELL: Purely as a practical
5 question. Did anyone else at Kik ever come to you and
6 raise concerns about CoinFund's survey or its work or
7 say, "Look, we shouldn't" -- "they're saying things we
8 just shouldn't trust"?

9 THE WITNESS: Not the my knowledge. Not to
10 my recollection.

11 BY MR. LEASURE:

12 **Q Let me just -- I hear everything you're**
13 **saying about what you were doing at the time and what**
14 **this survey did and didn't mean to you at the time.**

15 A Yeah.

16 **Q Just to push you to bit and see what you'd**
17 **say.**

18 A Sure.

19 **Q You were preparing to sell tokens at this**
20 **time, right?**

21 A We were preparing to launch a
22 cryptocurrency and sell some of that cryptocurrency,
23 yes.

24 **Q Yeah. Sure. Okay. And CoinFund was**
25 **surveying what people who might buy the thing your**

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1 **Q Projects.**

2 A Yeah.

3 **Q Okay. Fine. And so you weren't concerned**
4 **about whether there would be demand or coming from**
5 **whom. You knew it would be there?**

6 A Yeah.

7 **Q Okay. Got it. Okay. Let me point you to**
8 **one item here, page 25. That's Bates stamp 7715. It**
9 **says, "User Versus Investor Interest."**

10 A Okay.

11 **Q And there is: "In this survey, we**
12 **interviewed crypto investors and expected that most**
13 **respondents would be interested in the investment side**
14 **of the token proposition." And it has a breakdown of**
15 **some data.**

16 **Do you see that?**

17 A I do.

18 **Q Did you review this data at the time?**

19 A I don't recall reviewing this data at
20 the time.

21 **Q Okay. Do you recall anyone bringing this**
22 **data to your attention at the time?**

23 A I do not recall anybody bringing it to my
24 attention at the time, but they might have. I don't
25 recall that.

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1 **company was selling would be interested in?**

2 A I'm honestly not sure. Like, it sounds
3 roughly like it could be true. But, again, I'm not
4 sure of the specifics.

5 **Q And a general question. I'm curious, then.**
6 **If I were leading a company that was preparing to sell**
7 **any product, I'd think I'd want market research.**

8 A Maybe that's the difference between you
9 and me.

10 **Q I hear you. But it sounds like that**
11 **just -- why wasn't that of interest to you?**

12 A Because I knew it was a good idea. I
13 didn't need somebody else to validate for me that it
14 was a good idea.

15 **Q And you didn't need to know about the types**
16 **of people who might be buying this?**

17 A No. Like, I knew that if other people were
18 buying these other cryptocurrencies we talked about,
19 and those things, from my point of view, had nothing
20 there and were, in many cases, run by people who had no
21 idea what this was or what was going on, that what we
22 were doing was many, many, many times better than that.

23 **Q Okay. So you knew that there was demand**
24 **out there even for what you saw as inferior product?**

25 A Inferior projects, yeah.

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1 **Q Okay. So I take it from that -- do you**
2 **recall anyone questioning this particular aspect of the**
3 **CoinFund survey?**

4 A I don't recall.

5 **Q Did Coin -- do you know if anyone --**
6 **CoinFund or anyone else on behalf of Kik ever ran a**
7 **survey on this topic, why -- what people might be**
8 **interested in, in terms of a coin?**

9 A I don't recall.

10 **Q Okay. So you don't know any other data**
11 **that might be out there?**

12 A No. Like, not that I recall. Like, maybe
13 there was at the time. Maybe we talked about it.
14 Like, nothing sticks out in my mind.

15 **Q Fair enough. I'll take that back from you.**
16 **Thank you. I'm not going to go document by document,**
17 **but there seems -- some of the documents seem to refer**
18 **to after CoinFund presented -- gave this research to**
19 **Kik, that there might have been some sort of a meeting**
20 **within Kik to discuss CoinFund's survey and the**
21 **results.**

22 **Does any of that ring a bell for you?**

23 A I'm sure there was a meeting to discuss
24 results. That was the purpose of the report, was to be
25 a tool for Erin to use to convince herself, and then

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1 convince others and explain to others why this was a
2 good idea. So if there wasn't a meeting, then it
3 probably would have been not a very effective tool.

4 So I'm sure there was a meeting. But I
5 can't recall one specifically.

6 **Q You don't know if you participated or not?**

7 A I would assume I would have participated,
8 but I cannot recall specifically.

9 **Q Okay. See if there's -- okay. Let me show**
10 **you a document previously marked as Exhibit 108.**

11 A Why do you say those were previously
12 marked, out of curiosity? It's no longer marked that?

13 **Q No. It says in days past, it was marked**
14 **that.**

15 A But now it's marked something else or --
16 anyways --

17 **Q No, it's a great question.**

18 MR. GIBBS: We can explain that to you.

19 THE WITNESS: Okay.

20 (Discussion off the record.)

21 BY MR. LEASURE:

22 **Q This is a multi-page document with an**
23 **attachment.**

24 A Okay.

25 **Q It's Bates stamped KIK 17481, and the**

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1 contains an e-mail we've already looked at.

2 A Yeah.

3 **Q Your dumbed-down summary to the leadership**
4 **team, correct?**

5 A I didn't mean that to be offensive. I hope
6 it wasn't taken as offensive at the time.

7 **Q Okay. And then it appears that Hayeon and**
8 **Tanner are somehow working with that or some of that on**
9 **some deck or slides?**

10 A I'm not sure. Like, maybe it would be
11 helpful for me just to read it. Like, I have no idea
12 what this e-mail is.

13 **Q Go ahead. Go ahead.**

14 A So maybe I should just read it. Okay.

15 **Q Okay. You've read through it.**

16 **Any additional context you can give me to**
17 **what your employees are doing here?**

18 A I don't know for sure, but my guess would
19 be they're saying, "Okay. Ted has been explaining this
20 to the leadership team and the board. We're now
21 getting to the point where everybody is bought in
22 enough that we should go for this. And so now we need
23 to explain it to the rest of the employees."

24 And so what this looks like is an initial
25 first draft outline for what that presentation could

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1 e-mail chain ends March 28th, 2017. And I'll represent
2 to you I don't think you are -- I don't -- I am not
3 sure, but I don't think you're at least on the last
4 e-mail in this chain.

5 A Okay.

6 **Q I don't know if you are on this e-mail or**
7 **not.**

8 A It doesn't look like it.

9 **Q Do you recognize it?**

10 A I do not.

11 **Q Okay. Reading through it, I guess my first**
12 **question is: Just from what's in the e-mail, are you**
13 **able to give context to what it looks like Tanner Philp**
14 **and Hayeon Kim are talking about?**

15 A I'm not sure. I don't recall ever having
16 seen this e-mail before. Obviously, I've seen the part
17 lower down, which is, I think, the e-mail we looked at
18 earlier that I sent to the leadership team. But beyond
19 that, I don't think I've ever seen any of this before.

20 So I'm happy to read through it and give you my
21 thoughts. But let me know what you think.

22 **Q No. Let me try to just break it down to**
23 **pieces.**

24 A Okay.

25 **Q At the bottom of this e-mail chain, it**

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1 be.

2 **Q That's what I thought it might be. There's**
3 **a reference to a sit-down deck. I think that's what**
4 **the attachment is called here.**

5 A Uh-huh.

6 **Q Would that be a draft -- based on your**
7 **understanding of Kik's processes, would that be a draft**
8 **presentation for a sit-down with Kik employees?**

9 A Yep.

10 **Q About the crypto project in this case?**

11 A Yep.

12 **Q Okay. So this is your employees trying to**
13 **take your high level summary of the project and turn it**
14 **into draft, into slides?**

15 A Turn it into something that can be
16 explained that the rest of the employees can
17 understand.

18 **Q Got it. So let me point you to that draft.**

19 A Okay.

20 **Q It begins with "financing update" --**

21 A Yes.

22 **Q -- with two guys in sunglasses.**

23 **Do you see that?**

24 A Yeah.

25 **Q Was there -- was there a presentation made**

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1 at the sit-down at or around this time regarding the
 2 crypto project?
 3 A I don't recall specifically. But there
 4 was -- at some point in there, yes, we introduced this
 5 to the company at a sit-down.
 6 Q And do these slides look like what was
 7 presented to the company in a sit-down or do they not?
 8 A They look like they could be, yeah. I
 9 don't -- I can't say for sure. I'm not sure of the
 10 difference between this first draft and what was
 11 ultimately presented. But this looks like a first
 12 draft created by Tanner and Hayeon, or maybe Hayeon.
 13 MR. MITCHELL: Super practical question.
 14 If you wanted to go back and, you know --
 15 just at the company and say, "Oh, can I get the slides
 16 that we used for that sit-down?" Does somebody keep
 17 them, is there somebody who would be able to find,
 18 like, "These are the slides we used for this board
 19 meeting or this sit-down," or whatever?
 20 THE WITNESS: Probably.
 21 MR. MITCHELL: Okay. Who? Who would keep
 22 those?
 23 THE WITNESS: Probably a woman named Angela
 24 Watkins.
 25 BY MR. LEASURE:

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1 Q Are they -- for a sit-down with the company
 2 employees, are slides typically sent out in advance to
 3 employees?
 4 A No.
 5 Q So this would just be presented on a
 6 screen?
 7 A Yes.
 8 Q Okay. So it sounds like the woman you
 9 mentioned might be the best source for figuring out if
 10 there is a --
 11 A Yeah. I think if you wanted specific
 12 slides, we could probably get you the slides and say
 13 these were the ones we're pretty sure were presented.
 14 Q Okay. That's fair enough. Let me point
 15 you to this draft at least and see if it jogs any
 16 memory about a presentation or a sit-down meeting.
 17 Pointing to 17494, there is three questions.
 18 A 17494?
 19 Q You got it.
 20 A The Bates number?
 21 Q You got it.
 22 A Okay.
 23 Q Three questions: What is a cryptocurrency?
 24 Why would investors invest? And what does this do for
 25 us?

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1 A Yep.
 2 Q Do you remember presenting topics -- those
 3 topics or topics like that at a sit-down?
 4 A I think so, yeah.
 5 Q Okay. Let me ask just a few things that we
 6 see in here in this draft presentation, to see if it
 7 either jogs a bell or you can explain it.
 8 A Sure.
 9 Q 17495, "What is a cryptocurrency?"
 10 A Okay.
 11 Q There's reference to Fort Knox. I take it
 12 that's Kik's own holdings of the cryptocurrency it
 13 creates?
 14 A Yeah. I think maybe some context here,
 15 like --
 16 Q Yeah.
 17 A -- you know, here, the name Kin, for
 18 example, didn't exist. The idea that Kik Points --
 19 like, at this time, it was let's put Kik Points on the
 20 blockchain, and that was it. We were still discovering
 21 what this thing was, how it would work. When you make
 22 a decision to go all in on something, your sort of
 23 understanding of it rapidly starts to evolve.
 24 You know, for example, you see a million
 25 coins. So, yeah, Fort Knox is just trying to use an

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1 analogy for how this works.
 2 Q There seems to be an analogy going on about
 3 an example of a mini society, buy nice wine.
 4 A Yeah. I don't know what that is.
 5 Q Was that an something going on -- was that
 6 an analogy being discussed at the time?
 7 A Yeah. We created Kin just so you could buy
 8 nice wine. That's really the idea. I don't know what
 9 that's referring to.
 10 Q Fair enough. Doesn't ring a bell. Let me
 11 point you a few pages forward to 17497.
 12 A Yep.
 13 Q "Why would investors invest?"
 14 A Yep.
 15 Q I think the slide at least has a concept
 16 we've been discussing. Fixed supply of coins, demand
 17 increases, value of a coin increases, right?
 18 A Uh-huh. Uh-huh.
 19 Q I think we had seen earlier you -- I think
 20 in the e-mail in here, you referred to that as a value
 21 proposition?
 22 A I am not sure a value proposition is the
 23 right word. I would say this is the fundamentals
 24 economically of how cryptocurrencies work.
 25 Q Fair enough. Okay.

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1 MR. MITCHELL: Leaving aside the specific
2 slide. Is this a concept that you discussed with
3 the -- you know, at the sit-down to educate the full
4 company?

5 THE WITNESS: Yeah. Trying to explain how
6 cryptocurrencies as a business model works.

7 BY MR. LEASURE:

8 **Q Last thing. There's a voiceover, the**
9 **Domino's Pizza example.**

10 A Yeah. I don't know what that is.

11 **Q That was not some theme or idea that was**
12 **circulating around Kik that you recall?**

13 A No, I don't recall that.

14 **Q All right. Let's move on. I'll take that**
15 **back from you. Thank you, sir. I'll go through this**
16 **quickly because I think I'm hearing from you that while**
17 **you were pleased with the results of the CoinFund**
18 **survey, it wasn't something that took up much of your**
19 **attention or time.**

20 **Is that a fair summary?**

21 A Yes.

22 **Q Okay. There's some reference in the**
23 **documents to Peter Heinke maybe asking additional**
24 **questions of CoinFund and getting answers from them.**

25 **Does any of that ring a bell for you?**

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1 about this idea, he's like, "Wow. That's a crazy idea.
2 That just might work. But, I don't know, I think
3 crypto is too early." My recollection is he said, "If
4 you want to talk to somebody, you should talk to
5 William because I know he is doing a lot in the
6 cryptocurrency space."

7 MR. MITCHELL: Is this sort of at the time
8 when you were first talking to Mr. Wilson about the
9 idea?

10 THE WITNESS: Yes.

11 MR. MITCHELL: So is this before you talked
12 to the other Kik executives?

13 THE WITNESS: To the best of my
14 recollection, yes.

15 BY MR. LEASURE:

16 **Q So what happened next? Did you talk with**
17 **William over time?**

18 A I can't recall. Like, obviously, William
19 is a board member of the Foundation today. I can't
20 recall exactly how that transition went from when he
21 wasn't really involved at all to where he's now a board
22 member of the Foundation. I can't recall the specifics
23 of that transition.

24 **Q What did he do, if anything, for Kik in**
25 **connection with preparing for and then doing the token**

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1 A I don't recall that.

2 **Q How about presenting the CoinFund survey**
3 **and analysis to Kik's board? Did that happen?**

4 A I'm sure pieces of it were used, but I
5 don't recall anything specifically.

6 **Q Do you remember the board discussing the**
7 **CoinFund analysis?**

8 A I'm not sure if the board -- I don't recall
9 anything specifically. I'm not sure if, you know, the
10 board -- like, "Let's go through the CoinFund
11 analysis." You know, I know, like, I was relying on,
12 again, in this very tough time, getting Erin to give
13 her independent view of this as an option to the board.

14 So in her presentation, I'm sure she
15 probably referenced the study, but I can't recall
16 anything specifically.

17 **Q Okay. Moving -- well, let me pause here.**

18 **I want to talk briefly about a person who's**
19 **come up already named William Mougayar,**
20 **M-o-u-g-a-y-a-r. We may talk about him later in**
21 **connection with the Foundation.**

22 A Sure.

23 **Q But prior to the public sale, what did he**
24 **do for Kik, if anything?**

25 A My recollection is that after I told Fred

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1 **sale?**

2 A The only thing I can recall off the top of
3 my head is Fred asked me to speak with William after I
4 spoke with Fred to see if he -- and I don't know. I'm
5 guessing. Like, I think Fred was himself looking for
6 some validation that this was a good idea.

7 **Q I understand that. Other than talking to**
8 **him in those initial stages, was he -- for example, was**
9 **he a consultant for Kik in connection with the token**
10 **sale?**

11 A He might have been. I can't recall.

12 **Q Did Kik pay him?**

13 A I can't recall.

14 MR. MITCHELL: Who would handle consulting
15 agreements like that?

16 THE WITNESS: Peter, typically.

17 BY MR. LEASURE:

18 **Q You don't know if he was paid or not?**

19 A I can't recall exactly. I know -- because,
20 like, he got paid -- got paid, is getting paid for
21 being a board member of the Foundation. I can't
22 remember the exacts around that either. I know there's
23 been discussions of compensation. I can't remember
24 when those started, for what reasons.

25 **Q Okay.**

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1 MR. LEASURE: Let's go off the record.
 2 THE VIDEOGRAPHER: Going off the record.
 3 The time on the monitor is 4:29 p.m.
 4 (A brief recess was taken.)
 5 THE VIDEOGRAPHER: We are back on the
 6 record. The time on the video monitor is 4:39 p.m.
 7 BY MR. LEASURE:
 8 **Q Back on the record after a brief break**
 9 **during which, Mr. Livingston, did you have any**
 10 **substantive conversations about this investigation with**
 11 **SEC staff?**
 12 A I did not.
 13 **Q Thank you. So there was a white paper for**
 14 **the Kin token offering, correct?**
 15 A Correct.
 16 **Q What's the purpose of a white paper?**
 17 A The purpose -- so lots of different white
 18 papers have been written for lots of different reasons.
 19 The purpose, from my point of view, is to explain it
 20 vision.
 21 **Q So it's a vision document summarizing -- I**
 22 **guess we talked all day about your vision. The purpose**
 23 **was to explain that vision to the public?**
 24 A Uh-huh. Uh-huh.
 25 **Q Okay. Who's the target audience for the**

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1 **white paper?**
 2 A Anybody who's interested in Kin.
 3 **Q So it could be people who wanted to**
 4 **participate in the Kin ecosystem?**
 5 A Correct.
 6 **Q It could be -- I think you had mentioned**
 7 **that there were, however you want to define it,**
 8 **speculators or people looking to make money in this**
 9 **market, they could also read the white paper, too?**
 10 A They could read it, but I'm not sure they
 11 were the target. They were not the target. The target
 12 was to explain to anybody who saw the problems we did
 13 with where the consumer space was going, for them to
 14 say, "Wow" -- I'll watch my language -- "Wow, this
 15 could actually work. I want to be part of this."
 16 That was the purpose, from my point of
 17 view, of the white paper.
 18 **Q So Kik wanted people who were enthusiastic**
 19 **about the project, wanted to participate in the**
 20 **ecosystem, to read the white paper, and ultimately**
 21 **consider buying Kin, right?**
 22 A I think we wanted people to buy into the
 23 idea of the project and the vision behind it. And then
 24 from there, a way that they could participate and be
 25 part of it and be part of the solution to this very

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1 important problem, one of those ways was, yes, to buy
 2 Kin.
 3 **Q Got it. That's fine. Kik was aware and**
 4 **you were aware at the time, May of 2017, that there**
 5 **were also people out there looking to make money and to**
 6 **speculate on token projects?**
 7 A I was aware that there were people who were
 8 doing buys and flips of other cryptocurrencies, yes.
 9 **Q Right. There were communities out there.**
 10 **There was language they used to talk about their**
 11 **holdings of their different currencies. You were aware**
 12 **of that space out there?**
 13 A I was aware of it, but I wasn't really
 14 involved in it. Like, I was aware of it to the degree
 15 that TechCrunch would write a post on it.
 16 **Q And you would say Kik was not necessarily**
 17 **targeting that community in the white paper?**
 18 A "Targeting" is an interesting word. Like,
 19 we were writing the white paper ultimately for anybody
 20 who would today or would one day want to become part of
 21 the Kin ecosystem. Did we know that what I would call
 22 speculators would read that white paper and get excited
 23 about the Kin vision, and therefore, maybe go out and
 24 buy Kin? Yes.
 25 **Q Okay. Did Kik do anything to filter out**

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1 **speculators from the Kin token sale?**
 2 A Like, that's sort of a -- the question
 3 doesn't quite make sense. Let me try to explain why.
 4 Like, you know, it gets back to the word "speculator."
 5 Like, if I were to ask you a question, I know you get
 6 to ask the questions, like, would you consider Kik a
 7 speculator on the Kin token?
 8 **Q Maybe you should keep going with your**
 9 **answer.**
 10 A I didn't think I got to ask questions. But
 11 if I did -- the fundamentals of a cryptocurrency are
 12 there's a new asset. There's only so much of it. So
 13 the more demand there is for it, the more valuable it
 14 becomes. That is true for everybody who owns Kin.
 15 That's true for every developer, every user, and every
 16 what we might call speculator. That's just how
 17 cryptocurrencies work.
 18 **Q Understood. And you've been very clear**
 19 **about that, the fundamental economics today.**
 20 A Yeah.
 21 **Q I'm not married or even dating the term**
 22 **"speculator." I can use any term you want. But**
 23 **it's --**
 24 A So the reason I asked the question is,
 25 "filter out speculators," by that definition, Kik would

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1 be a speculator. Everybody would be a speculator. So
2 that's what I'm saying "filter out" -- like, that's why
3 the question doesn't make sense to me.

4 **Q Well, would you agree that there were**
5 **certain people out there in the markets who were**
6 **interested in buying tokens not for the purpose of**
7 **using those tokens, participating in whatever economy**
8 **was created around those tokens, but in just holding**
9 **them and then flipping them?**

10 A There were those people, yes.

11 **Q Okay. We can call those group X**
12 **speculators, whatever term we want.**

13 **My question is: Did Kik do anything to**
14 **keep those people away from the Kin token sale?**

15 A No. Like, maybe the reason I'm struggling
16 with it is because the reason anybody should adopt any
17 cryptocurrency is because they believe there will be
18 more demand over time. We'll all win together. We'll
19 operate in our selfish best interest. But in doing so,
20 we'll help everybody else.

21 So everybody in the ecosystem should view
22 Kin or any other cryptocurrency for the demand that
23 will get created and for the value that will go from
24 there. The degree to which any one of those
25 individuals will participate in individually

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1 Like, you know, maybe I'll tell a bunch of friends
2 about it and that will be my contribution, all the way
3 up to maybe I'll go all in with this billion dollar
4 consumer app and try to use that to drive demand.

5 We're all contributing in our own ways on a
6 different spectrum. So maybe that's why I have a
7 problem with it.

8 **Q No. Okay. I appreciate that. Did Kik --**
9 **in advance of the token sale, did Kik ask people where**
10 **they intended to fall on that spectrum?**

11 A I'm not sure. Because, like, this idea of
12 a spectrum is not a concept actually I have thought of
13 before right now --

14 **Q Oh.**

15 A -- in terms of how to describe it. So when
16 you say, "Did you ask people about it," like, it's a --
17 again, we're creating ways to understand this
18 fundamentally new thing. So I would say, no, I didn't
19 ask because it's not even a question I would know to
20 ask, like, through that framework.

21 **Q Let's leave aside the spectrum framework.**

22 A Yeah.

23 **Q Did Kik ask people how they intended to**
24 **participate, if at all, in the ecosystem during the Kin**
25 **token sale?**

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1 independently driving the demand of the overall
2 cryptocurrency is a spectrum and not a black or white
3 binary.

4 **Q Oh, okay. I think I got you. And I**
5 **think -- correct me if I'm wrong. I think the problem**
6 **you're having, not only with my use of the term**
7 **"speculator," but of trying to divide the world between**
8 **speculators and others is the following: Everyone who**
9 **correctly understands the economics of**
10 **cryptocurrencies, as you've defined it, has an**
11 **expectation or some belief that if the project is**
12 **successful, limited supply means value will rise?**

13 A I think everybody -- I'm not sure everybody
14 understands this actually, which is why I'm hesitating.
15 Actually, I think many people do not understand this.
16 But what they should understand is that if a lot of
17 people buy a cryptocurrency, then that means a lot of
18 people will have an incentive to drive demand for that
19 cryptocurrency because that's what will make the
20 cryptocurrency they own more valuable.

21 But in doing so, they'll make it more
22 valuable for everybody else, also. So maybe I -- I
23 thought you understood -- why I'm having a problem with
24 it is because it presents it as a binary, black or
25 white. Where what I'm saying is it's a spectrum.

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1 A Based on something I saw last week, I know
2 that we did. But I wasn't aware of that before. I
3 don't recall being aware of that before last week.

4 **Q Okay. All right. What did Kik do?**

5 A My recollection from last week is that we
6 asked -- CoinFund, I believe, asked potential people
7 why they would buy Kin.

8 **Q The survey or something else?**

9 A I can't recall. It was either the survey
10 or something else. I can't recall.

11 **Q And by "the survey," I mean the survey we**
12 **just looked as an exhibit.**

13 A It might have been that survey. It was
14 last week, but I still cannot recall.

15 **Q Okay.**

16 A I just remember that there was some data
17 of, like, you know, would you build something, would
18 you use it, or would you not do those things.

19 **Q Understood.**

20 A I can't recall who asked it, where they
21 asked it. But I do recall --

22 **Q Okay.**

23 A -- that it was asked from last week.

24 **Q Okay. How about -- there were ultimately**
25 **10,000 purchasers in the public sale, right?**

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1 A Uh-huh.

2 **Q As part of the public sale process, were**

3 **people asked, "What are you going to do with your Kin?"**

4 A I don't believe so, no.

5 **Q Okay. Was there any -- did Kik test**

6 **whether people were -- the actual people who's**

7 **registered to buy in the public sale, did Kik test**

8 **whether they were interested in flipping the tokens, in**

9 **holding them for a while, anything like that?**

10 A I don't recall asking. I don't recall us

11 asking that.

12 **Q That's fine. Okay. Going back to the**

13 **white paper. How was it written?**

14 A What does that mean? Sorry. What do you

15 mean by that?

16 **Q Tell me about the process of writing the**

17 **white paper.**

18 A I believe, to the best of my recollection,

19 the process was we got together in Israel to discuss

20 Kin. I think we had the name at that time, but I'm not

21 sure, and all of the different aspects of the project,

22 and the vision, how it would be set up so that we could

23 create this white paper.

24 My recollection is we spent time talking

25 about different areas, like the technology, the Reward

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1 Engine. But from my point of view, I spent the bulk of

2 my time focused on, like, the vision pieces of it. So

3 I know, like, we met in the Summit. We hashed out

4 different pieces of it, exactly how we wanted to

5 propose it working.

6 And once that was done, the teams went and

7 worked on that. But their exact specific sections, I

8 recall, to the best of my knowledge, not reviewing that

9 before the white paper was published.

10 **Q So it sounds like in terms of the process,**

11 **you wrote or helped draft the vision piece of it?**

12 A Uh-huh.

13 **Q And then other sections were written by**

14 **other people?**

15 A Correct.

16 **Q Okay. Let me show you a document. I'm**

17 **marking this currently as Exhibit 198.**

18 **(SEC Exhibit No. 198 was marked for**

19 **identification.)**

20 **BY MR. LEASURE:**

21 **Q Take a look at Exhibit 198 and let me know**

22 **when you're ready. I'll identify it for the record.**

23 A Uh-huh.

24 **Q It's a multi-page printout of an e-mail,**

25 **dated May 12th, 2017, with the subject "Latest White**

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1 **Paper," from Ted Livingston to Fred Wilson. It has**

2 **Bates stamp USV 8428.**

3 A Uh-huh.

4 **Q My first question is: What is this**

5 **document?**

6 A I think this is my draft of the

7 introduction to the white paper.

8 **Q Like, the vision piece you were talking**

9 **about before?**

10 A Uh-huh.

11 **Q And you wrote -- you sent this to Fred**

12 **Wilson; is that right?**

13 A Correct.

14 **Q Okay. You wrote -- to begin the e-mail,**

15 **you wrote, "Just rewrote the white paper on the plane**

16 **home from Tel Aviv." Let me pause there.**

17 **Is that -- you're referencing the Tel Aviv.**

18 **Is that the meeting in Israel you were referring to?**

19 A I believe I'm referring to that meeting in

20 Tel Aviv we just spoke about, yes.

21 **Q And that was a bunch of people from Kik**

22 **getting together to talk about the Kin project?**

23 A Correct.

24 **Q And the white paper?**

25 A Correct.

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1 **Q Okay. I'm sure some words changed, but**

2 **does this -- just eyeballing this, does this appear to**

3 **be similar to the vision statement that appeared in the**

4 **final white paper?**

5 A I was actually looking at that.

6 **Q Yeah.**

7 A I'm not sure how much of this actually

8 ended up being used in the end. Like, I know the

9 three-step process was. But when I reread the white

10 paper recently, the introduction did not match my

11 recollection of what -- of this.

12 **Q Okay. So this is -- I'll represent to you,**

13 **I think this is about two weeks before the white paper**

14 **was published in late May.**

15 A Uh-huh. Uh-huh.

16 **Q Can you walk -- do you know -- I don't need**

17 **you to tell me what words changed. But do you recall**

18 **thematically what may have changed from the drafting to**

19 **the final?**

20 A When I reread the white paper last week, I

21 don't believe it included this first section.

22 **Q Okay.**

23 A Or at least not like this. And I couldn't

24 recall why. I remember being surprised by that last

25 week when I saw that, just because I feel like I wrote

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1 this, and then, okay -- because the introduction that
2 was being proposed, I didn't like because I didn't
3 think it was, like, accurately representing it.

4 So we started with that. Then we had this.
5 And then we ended up with something else that I didn't
6 quite remember. So I can't remember how we went from
7 this to that part.

8 **Q That's fine. Who ultimately approved the**
9 **language of the white paper, if anyone?**

10 A I think it was probably -- I think Erin
11 Clift was taking the lead on putting together all the
12 pieces of the white paper, working with everybody who
13 had to do that. That's the best of my recollection.

14 I'm sure she would have shared it with the
15 rest of the leadership team, including me, saying, "Any
16 issues, let me know," would be my guess. But in terms
17 of the entire white paper itself, I don't recall
18 reading it front to back and approving it.

19 **Q Okay. Do you know if someone else did?**

20 A I hope Erin did, but I don't know.

21 **Q Fair enough. Keep that in front of you. I**
22 **might refer back to it when we go through the actual**
23 **white paper.**

24 A Okay. I'd be interested to see the white
25 paper.

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1 expert. And Jake was one of those experts.

2 **Q At the time, this is May of 2017, did Kik**
3 **have in-house expertise on a par with the people from**
4 **CoinFund in the crypto space?**

5 A I think this is -- you know, the answer to
6 this is they would know more about some things and less
7 about other things. You know, I think we -- I had a
8 very good handle about how to make a cryptocurrency
9 work and why it could be a new model.

10 But, you know, when people would look at
11 me, it's like, "Well, you haven't been in blockchain."
12 Actually, I had been, but just not in the classic way
13 of, you know, writing Bitcoin software. But in the
14 logic way, I've actually been involved since 2011.

15 I think what Jake brought with -- well, he
16 had been involved in launching other cryptocurrencies.
17 So if we're going to do that, we should find somebody
18 who's done that. And, Ted, you haven't done that.
19 That's totally true. Good point. Well, this Jake guy
20 has and his company, for lack of a better word, has.

21 So it's like, great, he was a nice guy,
22 smart guy. So that seemed like a good idea.

23 **Q Another person I see in e-mails around this**
24 **time, Hamish McKenzie, H-a-m-i-s-h.**

25 A Yeah.

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1 **Q How about CoinFund? We talked about them**
2 **before. Did they play -- did people from CoinFund play**
3 **a role in drafting the white paper?**

4 A They did.

5 **Q Who?**

6 A I believe Jake and Alex were in Tel Aviv
7 when we were working through all of this. I'm not sure
8 if anybody else from CoinFund was there or not. I
9 can't remember.

10 **Q I can just tell you without having to go**
11 **through all the e-mails, there's some suggestion that**
12 **you -- it seemed to me from the e-mails you might have**
13 **leaned pretty heavily on Jake to sort of help write the**
14 **parts or all of the white paper.**

15 **Is that consistent with your recollection?**

16 A Yes.

17 **Q Why is that?**

18 A I think we were looking for outside experts
19 at this time. Not just in crypto, but broadly. We had
20 sort of lost confidence in our own ability to do
21 things. And so, you know -- which, I think was
22 unfounded when I look back. But at the time, it was a
23 tough time. And so I think Jake was an expert.

24 And if we're going to get into crypto and
25 we don't know that much about it, let's go find an

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1 **Q Who is that?**

2 A He was our communications guy. He used to
3 be a journalist. And then we -- him and I connected
4 many years. He always sort of understood me maybe. So
5 we eventually ended up hiring him to help with our
6 communications. And then he also helped me sort of
7 edit my -- any blog post I wrote, stuff like that.

8 **Q Was he a Kik employee in 2017?**

9 A I believe he was. At some point, he left
10 around there. I'm not -- I can't remember when exactly
11 that was.

12 **Q Sometime in 2017?**

13 A I can't remember when he left.

14 **Q Was he still working for Kik after he left?**

15 A Well, he doesn't work for Kik today.

16 **Q Okay.**

17 A There was a period where I would send him
18 things as a friend to help me edit it. I'm not sure if
19 we were paying him at that point or not. So that's why
20 I can't -- there was a transition, and I can't recall
21 exactly, you know, what that looked like at each stage.

22 **Q How was the white paper published?**

23 A My understanding, it was put into a PDF and
24 posted to the website.

25 **Q So Kik created a website for it?**

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1 A Yep.

2 Q Okay. And I take it anyone with internet

3 access could read the white paper?

4 A Yes.

5 Q Okay. There wasn't some sign-in or --

6 there wasn't a sign-in process to read the white paper?

7 A No.

8 Q Okay. And it wasn't blocked anywhere or

9 anything like that?

10 A Blocked anywhere? Not to my knowledge.

11 Q Okay. Did Kik track anything, to your

12 knowledge, about who accessed that link and read the

13 white paper?

14 A I'm sure we got some data on at least how

15 many people were going there, how many people were

16 collecting it. But what the specific data was, I can't

17 recall.

18 Q Fair enough. Let's go to the white paper.

19 A All right. Now I'm interested to compare

20 this to that.

21 Q Here is your chance. I'm showing you a

22 document marked in days gone by as Exhibit 2. Take a

23 look at it and let me know when you're ready. I'll

24 identify it for the record as a multi-page document

25 entitled "Kin: A Decentralized Ecosystem of Digital

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1 Services for Daily Life. Position Paper." Exhibit 2

2 is Bates stamped KIK 1.

3 What is Exhibit 2?

4 A It looks like this was the publicly-posted

5 white paper outlining the vision for Kin.

6 Q I'll represent to you my understanding is

7 it was the final published white paper.

8 A Okay.

9 Q Okay. Going to page 2 of it, "Motivation."

10 A Okay.

11 Q Is this section yours?

12 A I can't recall specifically. It was a

13 while ago.

14 Q Sure.

15 A But what I seem to recall, now that I think

16 about it, is Jake wrote a first version. I wrote a new

17 version because I didn't like his version. I think

18 that's what I sent to Fred. That's when I say what I

19 rewrote, I didn't rewrite the white paper, I rewrote

20 the intro, the proposed intro to the white paper.

21 And then it looks like this maybe was a

22 combination of the two. I can't remember exactly how

23 it evolved over time to ultimately end up here.

24 Q Fair enough. Let me point you to the table

25 of contents on page 4, KIK 4.

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1 A Okay.

2 Q Looking at this, you were very helpful in

3 explaining it. It seemed like this was a sectional

4 document that you didn't write every section or review

5 every section. Just eyeballing the table of contents,

6 if you can help me understand where you were involved

7 in particularly.

8 A I would say in terms of the writing, I was

9 not very involved beyond Section 1.

10 Q Great.

11 A I was involved in some of the specific

12 information in some of the sections. Like, for

13 example, what should the allocations be. That's

14 something I jumped in. I was involved in that

15 discussion. But how exactly we explained that, I can't

16 recall being, like, sort of in the weeds on writing

17 that.

18 Q Got it. You weren't pen to paper, helping

19 to write some of the following sections after

20 Section 1?

21 A Correct.

22 Q Okay. Let's go to --

23 A That's my best recollection.

24 Q That's fine. Let's go to Section 1, which

25 I think starts on page 5. Do you see that?

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1 A Okay.

2 Q And you helped -- or you were the -- were

3 you the primary author of this section?

4 A This is -- I can't recall exactly. Like,

5 this is actually closer, it seems, to what I sent Fred.

6 So maybe this is more where my stuff got used, but I

7 cannot recall.

8 Q Yeah. Structurally looks kind of similar

9 to what you sent to Fred --

10 A Yeah.

11 Q -- it's certainly not the same words,

12 right?

13 A Uh-huh. I can't recall.

14 Q Let me go through a few of the words here

15 in the white paper.

16 A Sure.

17 Q Under Section 1, "Kik's Vision," on page 5.

18 A Okay.

19 Q Third paragraph begins, "To foster an

20 ecosystem that is not only open and decentralized but

21 also more compelling than its traditional counterpart,

22 Kik must create a series of new products, services, and

23 systems." Let me pause there.

24 Was that true?

25 A I think that's not true.

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1 **Q What is not true about it?**
2 A "Must." To accelerate the ecosystem, Kik
3 should, out of its own best interest, create a series
4 of new products, services, and systems. At the time,
5 that might have felt true. Again, I can't recall who
6 wrote this. But in hindsight, it's certainly not
7 definitively true.
8 **Q I'm sorry. You -- I may have missed what**
9 **you thought would be accurate. Instead of saying, "Kik**
10 **must create a series of new products, services, and**
11 **systems," you think that's inaccurate and it should**
12 **correctly read what?**
13 A Kik should out of its own selfish interest
14 create.
15 **Q Do you remember any discussion about this**
16 **language that I take it you currently think is**
17 **inaccurate?**
18 A I don't remember any discussion. And I
19 think, you know -- this is, again, a year and a half
20 ago, and it's easy to think about today what
21 cryptocurrency is. Everybody is talking about them.
22 But a year and a half ago even, people weren't. Like,
23 today, we sort of talked about this earlier, if
24 everybody on Kik was on a plane and the plane crashed,
25 Kik would not be able to create these things.

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1 And yet, it is still possible that the
2 ecosystem could not only continue -- would only
3 continue to run, that for sure is true, but that it
4 would actually grow and get more and more interesting
5 because of all of these incentivized people acting in
6 their own best interest.
7 **Q Let me point you to a few lines down to**
8 **another use of the word "must."**
9 A Uh-huh.
10 **Q The last sentence in the paragraph**
11 **beginning "A new digital currency," reads, "To**
12 **establish an economy around the new currency, Kik must**
13 **help to establish Kin's fundamental value."**
14 **Do you see that?**
15 A Where, I'm sorry?
16 **Q Sorry. Under "A new digital currency" --**
17 A Yep.
18 **Q -- the last --**
19 A Yes, I see it now.
20 **Q I'm sorry.**
21 A Okay.
22 **Q Is that sentence also false?**
23 A I think to establish an economy around a
24 new currency, Kik must create the new currency.
25 **Q You don't think it's true, that Kik must**

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1 **help to establish Kin's fundamental value?**
2 A That's a hypothetical. Let's say for a
3 second we create a new token on the Ethereum
4 blockchain, as many, many other tokens have done.
5 Those tokens exist on that blockchain, and many of them
6 don't have somebody helping establish their fundamental
7 values. So I would say no. I would say the market
8 alone could establish the fundamental value.
9 **Q Do you know why here in the preceding**
10 **sentence that we read -- the language read, "Kik must"**
11 **do the following things?**
12 A My hypothesis, which is all I can give you,
13 is that cryptocurrencies at this time, as they are
14 today, are very new and misunderstood. So maybe at the
15 time, it felt like it was a must. But today, looking
16 back, for sure, it was not a must.
17 **Q So if someone -- and you don't recall**
18 **discussing this terminology about whether Kik must do**
19 **such and such tasks with anyone?**
20 A I don't recall that.
21 **Q Do you recall discussing it with anyone who**
22 **purchased Kin?**
23 A I don't recall that.
24 **Q Do you recall ever correcting these**
25 **statements to anyone who purchased Kin?**

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1 A I don't recall discussing it with anybody
2 such that I would need to correct it.
3 **Q So sitting here today, has Kik ever**
4 **corrected these statements?**
5 A Not to my knowledge. This is the first
6 time I recall reading this statement.
7 **Q Let me push you a bit on that because I**
8 **think you earlier testified, correct me if I'm wrong,**
9 **that this was the section you worked on.**
10 A That's not what I said. I said I worked on
11 this section that I sent to Fred. It looks like parts
12 of this section weren't actually included in the intro,
13 which is what surprised me. But it looks like maybe
14 some of them were included in this section.
15 So when I say "worked on," I think some of
16 the stuff I wrote was used inside of it. But I don't
17 recall that I was the one who actually wrote this
18 section.
19 **Q Do you know who did?**
20 A I cannot recall.
21 **Q Did you read it before it was finally**
22 **published?**
23 A I do not recall.
24 MR. MURTHA: Do you think it's likely that
25 you did?

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1 THE WITNESS: I'm sorry?

2 MR. MURTHA: Do you think it's likely that
3 you read it before it was published?

4 THE WITNESS: I can say for -- I am
5 99 percent sure that there are parts of this that I
6 certainly did not read.

7 BY MR. LEASURE:

8 **Q And it's your testimony that parts of this**
9 **document are inaccurate?**

10 A I think, in hindsight, they are inaccurate.
11 But at the time, maybe they felt true to the person who
12 wrote this, based on the understanding they had at the
13 time.

14 **Q Okay.**

15 MR. MITCHELL: In this -- in the white
16 paper -- and if you could look down at the last
17 paragraph on page 5.

18 THE WITNESS: Yep.

19 MR. MITCHELL: Do you see the line that
20 says, "Kik will build fundamental value for the new
21 currency by integrating Kin into its chat app"?

22 THE WITNESS: Uh-huh.

23 MR. MITCHELL: So the white paper told
24 readers that Kik would build fundamental value for the
25 new currency by integrating Kin into the chat app?

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1 THE WITNESS: Uh-huh.

2 MR. MITCHELL: Is that true?

3 THE WITNESS: If I could reword this, what
4 I would say is: Kik will create demand for the new
5 currency by integrating Kin into its chat app.

6 MR. MITCHELL: Who -- so you wanted people
7 who read the white paper to understand that?

8 THE WITNESS: That we were going to
9 integrate Kin into our chat app, yes.

10 MR. MITCHELL: And create demand for it?

11 THE WITNESS: Yes.

12 MR. MITCHELL: And do you think that people
13 understood that?

14 THE WITNESS: Like -- you know, do I think
15 that people understand that today? I'm not sure.
16 Like, I think cryptocurrencies are one of the most
17 misunderstood things on the planet. So maybe -- like,
18 my question would be, like, understand what part of
19 that?

20 MR. MITCHELL: But you just said that -- do
21 you think people who read the white paper had
22 understood that Kik intended to create demand for Kin
23 tokens?

24 THE WITNESS: I think that people
25 understood that Kik intended to integrate Kin into its

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1 app. And in doing so, that would create demand.

2 Although, I'm not sure that they would understand that.

3 Probably what they -- for most people, I
4 can't -- you know, I'm speculating here, is that they
5 understood that Kik would integrate Kin into its chat
6 app.

7 MR. MITCHELL: Can I flip you to page 6?

8 THE WITNESS: Uh-huh.

9 MR. MITCHELL: Do you see that it says, "A
10 foundation for open governance"?

11 THE WITNESS: Yes.

12 MR. MITCHELL: And underneath it, it says,
13 "Over time, Kik will work to structure and form the Kin
14 Foundation."

15 Do you see that?

16 THE WITNESS: Yep.

17 MR. MITCHELL: Was that true?

18 THE WITNESS: Yes.

19 MR. MITCHELL: Okay. And you see below
20 that, it says, "As the founding member the Kin
21 Foundation, Kik will be the ecosystem's champion and
22 will showcase Kin to its millions of users."

23 THE WITNESS: Yep. I see that.

24 MR. MITCHELL: Was that true?

25 THE WITNESS: If I were to rewrite this, I

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1 would say: As the first app -- like, maybe let me step
2 back for a second. Like, what the Kin Foundation
3 exactly is and what exactly it's responsible for has
4 been an evolving thing. Like, at this point, I would
5 say the Kin Foundation is responsible for the
6 productive spending, if you will, of its 6 trillion Kin
7 that sits in its reserves.

8 So as a founding member of the Kin
9 Foundation, I think that felt more important at the
10 time than what it feels like today. But I think
11 what -- so that's why I'm taking it "as the founding
12 member of the Kin Foundation," like, that's sort of one
13 topic.

14 But if we skip to the comma there, I would
15 say: Kik will be the ecosystem's first app to
16 integrate Kin and will showcase Kin to its millions of
17 users.

18 MR. MITCHELL: That's what you wish it had
19 said?

20 THE WITNESS: Well, like, what is
21 ecosystem's champion? I don't recall reading this.
22 I'm pretty sure I didn't write this. So Kik will be
23 the ecosystem champion. Like, Kik will be the first
24 big app to integrate Kin. That's what Kik will be.

25 MR. MITCHELL: Okay. But in the white

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1 paper, Kik wrote, "Kik will be the ecosystem's
2 champion."

3 THE WITNESS: Correct. Somebody wrote
4 that, who worked for Kik.

5 MR. MITCHELL: Can I just flip you to the
6 part on page 9.

7 MR. LEASURE: Can I --

8 MR. MITCHELL: Go for it.

9 BY MR. LEASURE:

10 **Q One other thing because I think we're still**
11 **in the summary section. Can I point you back to**
12 **Exhibit 198? That is this one.**

13 A Yep.

14 **Q Let me point you to your draft section on**
15 **the second page, Step 2, "Giving Kin value."**

16 A Uh-huh.

17 **Q And under that, there's four paragraphs.**
18 **The last paragraph begins, "By using Kin to**
19 **drive an economy inside Kik, the value of the Kin**
20 **cryptocurrency will rise."**

21 **Do you see that?**

22 A Uh-huh. I don't see that yet, but it
23 sounds familiar. So let me take that back. Where?
24 Sorry. Which paragraph?

25 **Q Under Step 2, "Giving Kin value."**

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1 A Uh-huh.

2 **Q And my question -- which I should ask a**
3 **question -- is: Do you recall any reason -- well, let**
4 **me ask it in a better way.**

5 **Can you recall any discussion about whether**
6 **to include the concept of the value of Kin rising in**
7 **the future in this white paper?**

8 A I don't recall any specific discussion.

9 **Q To the extent that concept isn't in here,**
10 **the fundamental economics of crypto that we've been**
11 **discussing all day, to the extent that concept isn't in**
12 **the white paper, do you know why?**

13 A I don't know why because the value of an
14 asset is a function of supply and demand. The supply
15 is fixed. So if demand goes up, the price will go up.
16 If millions of people are using it inside Kik, that
17 demand, just that one piece that is contributing to
18 overall demand, will obviously be higher than if nobody
19 inside Kik is using it.

20 **Q Sure.**

21 A That's just economics fundamental.

22 **Q Did anyone ever suggest that that concept**
23 **not be included in the white paper?**

24 A I can't recall any specific discussions
25 around it. Like, you heard me say, like, probably it's

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1 A Yeah. Which paragraph?

2 **Q Last paragraph, "By using Kin" --**

3 A Yep.

4 **Q -- "to drive an economy inside Kik, the**
5 **value of the Kin cryptocurrency will rise."**

6 A Yep.

7 **Q Do you see that?**

8 A Uh-huh.

9 **Q Was that true?**

10 A All things being true, if in two worlds,
11 one -- in one world, people are using Kin inside Kik,
12 in other world, people are not using Kin inside Kik, in
13 the world where people are using Kin inside Kik, the
14 value of the current -- of the cryptocurrency will be
15 more valuable.

16 **Q Right. And that's based on the fundamental**
17 **crypto economics we've been discussing today?**

18 A Correct.

19 **Q I'll represent to you -- well, let me ask**
20 **you first: Was that sentence or that sentiment behind**
21 **it included in the white paper?**

22 A Probably.

23 **Q I'll represent to you I couldn't find the**
24 **concept of the value of the Kin cryptocurrency rising**
25 **in the final white paper.**

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1 included. That would have been my best guess.

2 **Q Okay. Let me keep you on the white paper.**

3 A Okay.

4 **Q Not your draft, but the final.**

5 A Yep.

6 **Q You got it. Page 8, Bates stamp KIK 8.**

7 A Okay.

8 **Q First, do you have any idea who would have**
9 **written this section beginning "The Kin**
10 **cryptocurrency"?**

11 A I would have guesses, but I'd just be
12 speculating.

13 **Q That's fine.**

14 A Do you want me to speculate?

15 **Q Sure.**

16 A Actually, I don't even have guesses. I
17 thought this was going to be a section on the
18 technology. But it's actually just a one-page -- so I
19 don't even have a speculation on who this would be.

20 **Q That's fine. The last sentence under**
21 **"Purpose and Characterization" reads, "Like other**
22 **cryptocurrencies, units of Kin are fungible and**
23 **transferable, and they will be expected to trade on**
24 **cryptocurrency exchanges."**

25 **Do you see that?**

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1 A Yep.

2 **Q What does it mean that units of Kin are**
3 **fungible and transferable?**

4 A I think fungible versus non-fungible -- I'm
5 not for sure on the definition, but if I were to guess,
6 it means like, you know, one is the same as the other,
7 you know. This Kin and that Kin are equally good Kin.

8 And transferable means that, you know, I
9 can send it to you, you can send it to me. Anybody can
10 transfer it from one person to another.

11 **Q It all -- the sentence goes on to say "and**
12 **they will be expected to trade on cryptocurrency**
13 **exchanges."**

14 A Uh-huh.

15 **Q I guess, first, were they expected to trade**
16 **on cryptocurrency exchanges?**

17 A They were expected to trade in
18 cryptocurrency exchanges, yes.

19 **Q How come? Where did that expectation come**
20 **from?**

21 A I think it's for two reasons. One is
22 because the fundamentals of how blockchain technology
23 works, we would be technically unable to stop them from
24 being traded on cryptocurrency exchanges. So, like,
25 that alone, like, it's expected because it's impossible

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1 to stop, and somebody is going to put it on exchanges.

2 But more than that -- or in addition to
3 that, should I say, for this to work as a vision,
4 developers would need to be able to sell cryptocurrency
5 they received, Kin they received to -- as revenue to
6 fund their operations. Consumers would need to be able
7 to buy it. Brands and advertisers would be able --
8 need to be able to buy it.

9 The only place they can buy it reasonably
10 is on a cryptocurrency exchange, or sell it.

11 MR. LEASURE: Go ahead.

12 MR. SCHLEGELMILCH: I was just going to
13 say: And, in fact, Kik had a very -- well, the idea
14 was Kik would have a very large position in Kin, and it
15 would need to have it exchanged somewhere where it
16 could turn it into fiat?

17 THE WITNESS: Yeah, that's how the whole
18 model worked --

19 MR. SCHLEGELMILCH: Right.

20 THE WITNESS: -- is, you know, sell smaller
21 and smaller pieces of the asset for more and more
22 money. And that's your economic reward for helping to
23 create this ecosystem.

24 MR. MITCHELL: Sell it for more as the
25 value went up?

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1 THE WITNESS: Yeah.

2 MR. MITCHELL: Okay.

3 THE WITNESS: That's the fundamentals of
4 how this works.

5 BY MR. LEASURE:

6 **Q Let me point you to page 11.**

7 A Okay.

8 **Q "Kin integration into Kik."**

9 **Do you see that section?**

10 A Yep.

11 **Q This talks about the prior experiment with**
12 **Kik Points. Do you see that?**

13 A I see that.

14 **Q And do you see that further on in this**
15 **paragraph, it says, "Kik's team has a proven track**
16 **record in developing products for the mass market, and**
17 **Kik looks forward to introducing cryptocurrency into**
18 **the product process"?**

19 A I see that.

20 **Q So would you agree that in part, this white**
21 **paper talks about Kik's prior experience and its track**
22 **record and its -- and the like?**

23 A I would agree.

24 **Q Why does it do that?**

25 A I don't know. I don't recall having ever

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1 read this. So I can't speak to why somebody would put
2 this in there. If I had to speculate, it's -- I think
3 they're trying to say Kik is going to integrate Kin
4 into Kik, and you have no reason, based on their past,
5 to believe that this won't happen.

6 **Q Okay. Stepping back from these particular**
7 **words. Do you think part of the pitch for the Kin**
8 **offering was that Kik had a proven track record?**

9 A I think it was one of the things that made
10 Kin exciting for sure, in the way that it would have
11 been very exciting if we said instead of Kin, you know,
12 we're going to be integrating Ether into Kik. That
13 would be very exciting for the Ether community for
14 sure.

15 **Q Sure. The existence of Kik as a successful**
16 **messaging app was part of the --**

17 A Yeah. And adopting a specific
18 cryptocurrency is -- for sure, it would be exciting for
19 any cryptocurrency.

20 **Q Right. And do you think part of the pitch**
21 **was that people at Kik know how to do this?**

22 A Part of the pitch -- I'm just thinking
23 about your word "pitch." I think part of the reality
24 is that Kik knew how to build consumer products for
25 sure.

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1 **Q And do you think that's something that**
2 **could have appealed to people considering whether to**
3 **participate in the token sale?**

4 A For sure. Kik is going to own 3 trillion
5 of these. We're going to be very interested operating
6 in our self-interest to maximize demand. That's going
7 to make their Kin very valuable. That's going to make
8 all Kin very valuable. Yeah, that's exciting.

9 **Q Got it. Kik is not two guys in a basement.**
10 **It is -- it has a management record and**
11 **experience, right?**

12 A Right.

13 **Q Okay.**

14 MR. MITCHELL: Later on in the white paper,
15 there's, like, pictures of the executives. Is that --
16 is this sort of the profiles of the executives there to
17 show Kik's gravitas?

18 THE WITNESS: Gravitas?

19 MR. MITCHELL: Abilities?

20 THE WITNESS: I think -- I'm not sure
21 why -- I'm sorry. I'm not sure why they included
22 pictures. I assume it's to show that these are indeed
23 real people.

24 MR. MITCHELL: Oh, I'm sorry. I didn't
25 mean -- pictures. There's a paragraph bio for Kik

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1 use cases."

2 A Is that what's happened since then?

3 **Q Yeah.**

4 A Yes.

5 MR. LEASURE: Let's go off the record.

6 THE VIDEOGRAPHER: This ends Disc Number 3.
7 Going off the record. The time is now 5:25 p.m.

8 (A brief recess was taken.)

9 THE VIDEOGRAPHER: This begins Disc
10 Number 4. We are back on the record.

11 The time is now 5:27 p.m.

12 BY MR. LEASURE:

13 **Q Back on the record after a brief break,**
14 **Mr. Livingston. Did you have any substantive**
15 **conversations about this investigation with SEC staff?**
16 A I did not.

17 **Q Very good. Let me point you to page 21 of**
18 **this document, KIK 21. It begins, "Kin token**
19 **issuance," "Kin token allocations."**

20 **Do you see that?**

21 A Yep.

22 **Q This says, "In order to finance the Kin**
23 **roadmap, Kik will conduct a token distribution event**
24 **that will offer for sale 1 trillion tokens out of a**
25 **10 trillion unit total supply of Kin."**

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1 executives, and then core team, and lead advisors.

2 THE WITNESS: Yeah. I think this is
3 like -- these are all the people who are birthing Kin
4 into the world. And that's exciting.

5 BY MR. LEASURE:

6 **Q There's -- starting on page 12 and going**
7 **forward, there's a description of perspective use cases**
8 **here.**

9 A Yep.

10 **Q Where did these come from?**

11 A I don't recall exactly. I don't recall
12 being involved in this section. I recall actually
13 thinking that some of the use cases weren't that
14 interesting. But, you know, a lot of different people
15 were contributing, and different people with different
16 sort of views of how this should all work. And if they
17 thought it was interesting -- you know, I wasn't
18 writing this section. I don't remember specifically
19 reviewing it.

20 **Q And it says that, "Kik will introduce a**
21 **number of marketplace use cases that will prompt**
22 **consumers and brands to transact with Kin."**

23 **Did that -- is that what's happened?**

24 A Which part?

25 **Q "Kik will introduce a number of marketplace**

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1 **Did you see that?**

2 A Uh-huh.

3 **Q Was that the plan at the time?**

4 A Was that the plan at the time? I think
5 what the plan was, is in order to accelerate the Kin
6 roadmap, Kik will conduct a token distribution event
7 that will offer for sale 1 trillion units out of
8 10 trillion unit supply.

9 **Q So the change you made there was instead of**
10 **saying "to finance the Kin roadmap," you said "to**
11 **accelerate"?**

12 A Correct.

13 **Q So "finance" was inaccurate?**

14 A Yeah.

15 **Q Okay.**

16 A Again, if the day after the TDE, everybody
17 on Kik got on a plane, the plane crashed, and everybody
18 died, and all access to the Kin went with it, you'd
19 have 10,000 people who'd be very incentivized to make
20 Kin work.

21 **Q Okay. Other than that term, the plan was**
22 **to offer for sale -- as of May, the plan was to have a**
23 **10 trillion total supply of Kin, correct?**

24 A Uh-huh. Correct.

25 **Q And have 1 trillion units sold?**

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1 A Yep.

2 Q Okay. Further down in this document, it

3 says, "Another 3 trillion Kin will be pre-allocated to

4 Kik as a founding member."

5 A Yep.

6 Q That was the plan as of May?

7 A Yep.

8 Q And then the remaining 6 trillion of Kin

9 would be the purview of the Kin Foundation?

10 A Yep.

11 Q And that was the plan as of May?

12 A I believe so, yep.

13 Q And numbers-wise, that's actually what's

14 happened, correct?

15 A I believe so, yep.

16 Q Okay. The second sentence here on page 21

17 reads, "The proceeds of the token distribution event

18 will be used to fund Kik operations and to deploy the

19 Kin Foundation. A portion of the funds raised in the

20 token distribution will be used to execute upon the

21 roadmap of additional feature development planned for

22 the Kin integration into Kik."

23 Did you see that?

24 A Yep.

25 Q Was that accurate?

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1 A I would say from the revenue we created

2 selling the 1 trillion Kin, we will spend that money to

3 execute on pieces of the roadmap, or to build out

4 pieces of the roadmap outlined here, and to also fund

5 additional feature development planned for the Kin

6 integration inside Kik, yeah.

7 Q Okay.

8 MR. SCHLEGELMILCH: And also just to sort

9 of keep the lights on the messaging side of the

10 business, right?

11 THE WITNESS: Yes.

12 MR. SCHLEGELMILCH: This was all sort of

13 co-mingled in one bank account, the money that came in

14 from the token distribution event, or maybe a series of

15 bank accounts? But it was to be used for the running

16 of Kik Interactive, correct?

17 THE WITNESS: It was -- part of it was to

18 be used for the running of Kik Messenger.

19 MR. SCHLEGELMILCH: Okay.

20 THE WITNESS: Is that what you mean by

21 that?

22 MR. SCHLEGELMILCH: That's what I mean by

23 that.

24 THE WITNESS: Yep.

25 BY MR. LEASURE:

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1 Q At the time, was there a written plan in

2 place for how to spend the proceeds of the token

3 distribution event?

4 A There probably was, like, a best guess. I

5 don't remember a specific plan, though.

6 Q Did you ever see one?

7 A Sounds familiar, but I can't recall

8 specifically.

9 Q Okay. Subsequently, has there been a

10 written plan you can recall for --

11 A Well, we definitely had plans for, like --

12 of the cash we have, how are we spending it. So

13 definitely, that would exist.

14 Q And has that ever been pushed out or

15 published to the Kin community?

16 A Not to my knowledge.

17 Q Okay.

18 That wasn't disclosed in advance

19 of -- the plans for how to spend money weren't

20 disclosed in advance of the token distribution event?

21 A No.

22 Q Okay.

23 A Not to my knowledge.

24 Q Point you to one other thing. Page 23,

25 "Token Distribution Event." Right at the top, it

Page 305

1 reads, "The Foundation will commence the token

2 distribution event once Kik has completed the

3 technology upgrade to integrate with Kin and the

4 cryptocurrency can be used functionally within Kik."

5 Did you see that?

6 A Yep.

7 Q Pause there. "The Foundation will commence

8 the token distribution event." I just wanted to drill

9 down on that phrase.

10 Did the Foundation commence the token

11 distribution event?

12 A I can't recall. But, you know, who wrote

13 the smart contract to create Kin? That was Kik

14 employees.

15 Q Okay.

16 MR. MITCHELL: And who decided

17 to actually -- you know, to say, "Okay. Let's do it if

18 we're going to start the token distribution event"?

19 THE WITNESS: Like, to actually create Kin,

20 to sell Kin?

21 MR. MITCHELL: No. In September of 2017,

22 to say, "Okay. We're going live."

23 THE WITNESS: Like, that now is the

24 time?

25 MR. MITCHELL: Yep.

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1 THE WITNESS: I think that was probably
2 ultimately my decision. But it was probably, like, a
3 consensus-based decision among the leadership team,
4 like, now is the time.

5 MR. MITCHELL: Kik employees?

6 THE WITNESS: Kik employees, yes.

7 BY MR. LEASURE:

8 **Q Did the Kik board ever authorize the token**
9 **distribution event?**

10 A I believe they did, but I can't recall
11 specifically.

12 **Q Okay. And this says the event will**
13 **happen -- going back to page 23.**

14 A Uh-huh.

15 **Q "Will commence the token distribution event**
16 **once Kik has completed the technology upgrade to**
17 **integrate with Kin and the cryptocurrency can be used**
18 **functionally within Kik."**

19 A Uh-huh.

20 **Q We're going to turn to this more tomorrow,**
21 **but what was your understanding at the time of what it**
22 **meant to complete the technology upgrade to integrate**
23 **with Kin?**

24 A I can't recall ever having read this
25 sentence, so I can't obviously recall what it is trying

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1 exactly what that would be. We knew what Kik Points
2 was.

3 We knew millions of people used Kik Points. We
4 knew there was tons of utility to Kik Points. But when
5 we took all of those different use cases for Kik Points
6 and figured out how it could intersect with what the
7 state of blockchain technology could actually enable,
8 that was something we had to figure out.

9 So we knew, like, what everything Kik
10 Points did. But of those, which ones the blockchain
11 technology was sort of mature enough to be able to
12 support at this time, I don't recall us being clear on.

13 **Q So if I asked you in May of 2017, if I'm --**
14 **as someone potentially interested in buying Kin, and**
15 **say, "Hey, Mr. Livingston, what does that mean, the**
16 **cryptocurrency can be used functionally within Kik,"**
17 **your answer would have been, "We don't know yet"?**

18 A My answer would be: These are all of the
19 things you could use Kik Points for. These are all of
20 things we -- if we had kept going with Kik Points, we
21 were thinking about ways -- additional ways you could
22 use Kik Points.

23 But of all those things, which we
24 can -- which of them can we make with -- work with
25 Ethereum blockchain when we do our token distribution

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1 to get at.

2 **Q Okay.**

3 A I could speculate, but I can't recall.

4 **Q Do you know -- and so just to -- the other**
5 **phrase in there that I wanted to ask you about, "the**
6 **cryptocurrency can be used functionally within Kik" --**

7 A Yep.

8 **Q -- you don't recall reading this sentence**
9 **at the time, correct?**

10 A Correct.

11 **Q Did you have an understanding that the**
12 **token distribution event would happen once the**
13 **cryptocurrency could be used functionally within Kik?**

14 A Yes.

15 **Q And what -- at the time, we're in May of**
16 **2017, what did that mean to you?**

17 A What it meant to me is that Kik users and
18 anybody who owned Kin would be able to get utility from
19 that Kin within Kik as a broader consumer experience.

20 **Q And at this time, we'll talk about this**
21 **more tomorrow, but were those stickers or was that some**
22 **other function you had in mind?**

23 A At this time or at that time?

24 **Q May of 2017.**

25 A I think in May of 2017, we weren't sure

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1 event, we're not sure yet.

2 **Q Okay.**

3 MR. MITCHELL: Because we're asking about
4 token distribution event, can I just ask a practical
5 question?

6 I asked you earlier about sort of who
7 approved the idea.

8 But is literally starting the token
9 distribution event like someone sitting at a computer,
10 hitting a button saying, you know, run or go or
11 something like that?

12 MR. SCHLEGELMILCH: I just picture a big
13 button.

14 MR. MITCHELL: Yeah, exactly.

15 MR. SCHLEGELMILCH: That you, like, flip a
16 coin to get the push.

17 THE WITNESS: I don't think there's a big
18 button.

19 I think what starts a token distribution event
20 is you publishing a smart contract to the Ethereum
21 blockchain.

22 And then you telling people, "Hey, the
23 smart contract for the Kin token distribution event can
24 be found here at this address."

25 MR. MITCHELL: And was there -- was that

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1 done? That publishing, that's done by Kik employees?
 2 THE WITNESS: Yes.
 3 MR. MITCHELL: And do you know who or what
 4 group was doing that kind of work?
 5 THE WITNESS: I don't know for sure. I can
 6 speculate, but one of the technical guys.
 7 MR. MITCHELL: Sure. I mean, more likely
 8 in Israel or in Waterloo?
 9 THE WITNESS: More likely in Israel.
 10 MR. MITCHELL: Israel. Okay.
 11 BY MR. MITCHELL:
 12 **Q Last thing on this document. Would you**
 13 **agree that in reviewing this document, you identified**
 14 **some things that you would testify are inaccurate in**
 15 **this document?**
 16 A I think there are things in this document
 17 that people who wrote this believed to be true at the
 18 time; but as our understanding of cryptocurrencies has
 19 evolved, not just internally, but as an industry, would
 20 no longer appear to be true.
 21 **Q Okay.**
 22 **And you anticipated my next**
 23 **question, which is: Why are there things that are no**
 24 **longer true or inaccurate?**
 25 **Why do you think that is?**

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1 A Because it's a new emerging technology, and
 2 everybody is doing their best to figure out what
 3 exactly this is, where exactly it's going. And as I'm
 4 sure you guys can relate, it's a complicated thing.
 5 And, you know, I don't envy you for that. And so I
 6 think just like for you or for anybody else, it's true
 7 for people who worked at Kik as well. They were sort
 8 of trying to articulate what was their best
 9 understanding at the time.
 10 **Q And that's changed over time?**
 11 A Has your understanding of cryptocurrencies
 12 changed over time?
 13 **Q That's when I've got to say is I ask the**
 14 **questions.**
 15 **People's understanding of how**
 16 **cryptocurrencies work has changed over time at Kik?**
 17 A I would say that every single person's
 18 understanding of how cryptocurrencies work has changed
 19 over time.
 20 **Q Okay.**
 21 MR. MITCHELL: Was there any time between
 22 the publishing of the white paper and the token
 23 distribution event that anyone revised the white paper
 24 or corrected statements in it?
 25 THE WITNESS: Not to my recollection

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1 because, you know, this -- like, my understanding of
 2 this document was, like, this is our vision at the
 3 time.
 4 Obviously, this is going to change, as it has
 5 changed for every other cryptocurrency project. And,
 6 in fact, it's the rate of change which you should be
 7 excited about.
 8 If it's not changing, it means they're
 9 not learning and not adapting.
 10 So, you know, it just didn't feel like to
 11 me, in hindsight, you know, that this was meant to be
 12 some document in stone. Like, no document in
 13 technology is.
 14 MR. LEASURE: Off the record.
 15 THE VIDEOGRAPHER: Going off the record.
 16 The time is now 5:38 p.m.
 17 (Whereupon, at 5:38 p.m., the examination
 18 was adjourned.)

* * * * *

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1 PROOFREADER'S CERTIFICATE
 2
 3 In the Matter of: KIK INTERACTIVE
 4 Witness: Edward "Ted" Livingston
 5 File Number: HO-12869-A
 6 Date: Wednesday, November 7, 2018
 7 Location: Washington, D.C.
 8
 9 This is to certify that I, Christine Boyce,
 10 (the undersigned) do hereby certify that the foregoing
 11 transcript is a complete, true and accurate transcription
 12 of all matters contained on the recorded proceedings of
 13 the investigative testimony.

14 _____
 15
 16
 17 (Proofreader's Name) (Date)

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PROCEEDINGS

THE VIDEOGRAPHER: Good morning. This begins Disc Number 1, Volume II. We are back on the record. The time on the video monitor is 9:40 a.m.

Whereupon,

EDWARD "TED" LIVINGSTON

was re-called as a witness and, having been previously duly sworn, was examined and testified further as follows:

BY MR. LEASURE:

Q Back on the record on November 8th, 2018.

Mr. Livingston, during the break in testimony, did you have any substantive conversations about this investigation with SEC staff?

A I did not.

Q Do you understand you're still under oath?

A I do.

MR. MITCHELL: Overnight, Brett sent us -- yesterday we talked, do you remember we were talking about a sit-down meeting, the company-wide meeting, where you talked to sort of everyone about the token idea?

THE WITNESS: Uh-huh.

MR. MITCHELL: So overnight, Brett sent us a link to a document. Can I just ask, the concept of a sit-down meeting, this is -- I guess, what -- how does

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1 that work? How did that fit inside Kik's culture?
 2 What is a sit-down meeting?
 3 THE WITNESS: A sit-down is for the most
 4 part like a regularly occurring meeting with everybody
 5 from the company.
 6 MR. MITCHELL: Regularly, like once a
 7 month, once a quarter, or?
 8 THE WITNESS: It's changed over the years.
 9 I'm not sure what the cadence was at this point. At
 10 one point, it was every week. At one point, we
 11 switched that, I think, to once every month. So I'm
 12 not sure what it was at this point.
 13 MR. MITCHELL: As a practical matter,
 14 videoconference -- people in Waterloo would come
 15 down --
 16 THE WITNESS: Yep.
 17 MR. MITCHELL: -- and people outside
 18 Waterloo can see it on video?
 19 THE WITNESS: Correct.
 20 MR. MITCHELL: And what -- how did you --
 21 how did you use sit-downs to -- in terms of
 22 communicating that?
 23 THE WITNESS: The purpose of sit-downs is
 24 like just a chance for the whole company to get
 25 together to share news, to share achievements, to share

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1 information. Sometimes that would come from me.
 2 Sometimes that would come from various teams within the
 3 company. Sometimes it would come from other people on
 4 the leadership team.
 5 MR. MITCHELL: And the document -- let me
 6 just -- we'll just mark the next number.
 7 (SEC Exhibit No. 199 was marked for
 8 identification.)
 9 MR. MITCHELL: We're going to mark as
 10 Exhibit 199 a multi-page document. This is the one we
 11 have. It's KIK_00119718 to 766.
 12 THE WITNESS: Uh-huh.
 13 MR. MITCHELL: Have you seen this before?
 14 THE WITNESS: I have.
 15 MR. MITCHELL: What is it?
 16 THE WITNESS: I believe this is the
 17 presentation that was shown at sit-down.
 18 MR. MITCHELL: And just looking at the
 19 first page, the slide gets displayed to everybody. And
 20 the part underneath is just text for the speaker?
 21 THE WITNESS: Correct.
 22 MR. MITCHELL: And the front of it, it
 23 says, Sit-down March 30th, 2017.
 24 Do you think that this meeting happened on
 25 March 30th, 2017?

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1 THE WITNESS: That would be my -- I would
 2 think so, yes.
 3 MR. MITCHELL: So at this points in time,
 4 where were you in terms of -- sort of telling people --
 5 say before the meeting -- let me start over.
 6 Before the meeting, who knew about the idea
 7 of potentially doing a -- selling a token?
 8 THE WITNESS: It's hard for me to say who
 9 exactly would know. But I would -- my best guess would
 10 be that this meeting is when we would share it with
 11 everybody. And before this meeting, not everybody
 12 internally would know our plans with crypto or proposed
 13 plans with crypto.
 14 MR. MITCHELL: Earlier yesterday, we talked
 15 sort of about the issue of you feeling like you --
 16 convincing other people and making sure that other
 17 people saw this project as a good -- a positive thing
 18 to do. Do you remember that?
 19 THE WITNESS: Yes.
 20 MR. MITCHELL: How did this fit into that
 21 kind of effort?
 22 THE WITNESS: I would say that this was --
 23 like, this was the first time we were sharing it with
 24 the entire company is my recollection. And so again,
 25 it was a period of very sort of low trust, high stress

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1 as we were having declining metrics. So we -- my best
 2 recollection -- and we can go through it -- is we
 3 wanted to do it in a way that was sort of as simple as
 4 possible for people to understand because it was a
 5 totally brand-new concept.
 6 My recollection is we didn't want to --
 7 because we were doing -- trying lots of different
 8 things to find a way to compete with these big
 9 companies. And a lot of them weren't working. So we
 10 wanted to do this in a way that sort of instilled
 11 confidence in the team that this was a good option for
 12 us.
 13 MR. MITCHELL: You mean through the
 14 presentation explain the story?
 15 THE WITNESS: Yes.
 16 MR. MITCHELL: When you made this
 17 presentation -- when you created the presentation, did
 18 you put in the things that you thought would accomplish
 19 that?
 20 THE WITNESS: So I didn't create the
 21 presentation itself. Usually, the way the process
 22 would work is different people would create different
 23 slides. They'd add their own notes to it, what they
 24 recommended, how they would explain the slide. But
 25 definitely, I would say the goal of this presentation

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1 was to explain the concept in the simplest way possible
 2 to the degree that we understood it ourselves at the
 3 time that instilled confidence with the team that this
 4 was a good idea.

5 MR. MITCHELL: This document -- the
 6 description is the way you understood it at the time?

7 THE WITNESS: The description? Sorry.
 8 Which description?

9 MR. MITCHELL: This document describes the
 10 project as you understood it at the time of the
 11 meeting?

12 THE WITNESS: I would say this presentation
 13 was trying to share sort of the intersection of our
 14 understanding of what it was and where it was going and
 15 why it was a good idea, but also in a way that people
 16 could understand.

17 MR. MITCHELL: So looking on the first
 18 page, it seems to break it up into two parts. A part
 19 that Eran Ben-Ari presented and a part that you
 20 presented?

21 THE WITNESS: That's what it looks like,
 22 yes.

23 MR. MITCHELL: Is that how you remember the
 24 presentation going?

25 THE WITNESS: I don't recall exactly.

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1 let you know. So I can't recall who wrote this. But I
 2 would be pretty sure that I would not have written
 3 these notes.

4 MR. MITCHELL: It doesn't feel like it's
 5 your writing.

6 THE WITNESS: Yeah. So yeah. I think
 7 these are -- the people who put it together, it
 8 probably is their recommendation for how to speak to
 9 this slide.

10 MR. MITCHELL: So then could you go back to
 11 the cryptocurrency slide that ends in 743.

12 THE WITNESS: Okay.

13 MR. MITCHELL: I think a lot of this sort
 14 of summarizes things we talked about yesterday, the
 15 page that ends in 744.

16 THE WITNESS: Okay.

17 MR. MITCHELL: You described -- you sort of
 18 compared the new idea to the Kik Points that people
 19 already knew; is that what this slide is doing?

20 THE WITNESS: That's what it looks like,
 21 yes.

22 MR. MITCHELL: Then there is -- the next
 23 slide is pictures of pizza?

24 THE WITNESS: Yeah.

25 MR. MITCHELL: Do you remember what you

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1 MR. MITCHELL: Flipping through, are you
 2 able to sort of see where the -- sort of where the
 3 dividing line is where you took over?

4 THE WITNESS: My guess would be I would
 5 probably open it. I would think that Eran would do the
 6 product section. I'm not sure who would have done the
 7 public group section. Could have been Eran, it could
 8 have been me, could have been somebody else.

9 Community chat, I'm not sure who did that
 10 section. Cryptocurrency, I believe I would have
 11 presented this section. But I can't recall exactly.

12 MR. MITCHELL: The part that starts with
 13 the slide that says Cryptocurrency, and has a number on
 14 the bottom right corner that ends in 743?

15 THE WITNESS: Yep.

16 MR. MITCHELL: Can I just take you to the
 17 second page. There is a page that has sort of in the
 18 slide the word "capability" and the word "change" and a
 19 lot of other words?

20 THE WITNESS: Yes.

21 MR. MITCHELL: Looking at the notes
 22 underneath it, does this look to you like something you
 23 -- are those notes that you used, or is that somebody
 24 else writing in?

25 THE WITNESS: Let me read it, and I will

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1 were communicating and what you said when you were
 2 talking about this one?

3 THE WITNESS: I think this was a reference
 4 to the pizza that was bought for 10,000 Bitcoins.

5 MR. MITCHELL: Oh, yeah. The famous story
 6 that somebody paid 10,000 Bitcoins for pizza, and now
 7 everyone loves to calculate what that pizza costs?

8 THE WITNESS: Yes. The appreciation of the
 9 currency.

10 MR. MITCHELL: That's making the point that
 11 Bitcoin certainly had appreciated since the person
 12 bought the pizza?

13 THE WITNESS: Yes.

14 MR. MITCHELL: The next one that's 746.
 15 What are you describing here?

16 THE WITNESS: I can't remember for sure.
 17 My best guess would be, though, that there was an
 18 opportunity with the cryptocurrency to align users,
 19 developers, and creators to all work together.

20 MR. MITCHELL: Then the next two slides,
 21 which look pretty similar -- looks like it's one of
 22 those things where you have one slide, and you press
 23 the button and the words "bots platform" gets added?

24 THE WITNESS: I think the next slide is
 25 talking about the pillars of the Kik Messenger product.

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1 And then how cryptocurrency can underline all of those
2 pillars and contribute to all of those pillars.

3 MR. MITCHELL: If you keep going, there is
4 a slide that says, "We can leverage growing investment
5 trends to support our community initiatives."

6 Do you see that?

7 THE WITNESS: I do.

8 MR. MITCHELL: What are you talking about
9 here?

10 THE WITNESS: I think what I'm talking
11 about here is the growing behavior of people purchasing
12 cryptocurrencies. And therefore, people purchasing --
13 the potential for people to purchase a cryptocurrency
14 that we would launch. And therefore, the potential for
15 this to be a viable business model for us.

16 MR. MITCHELL: And the next page.
17 Yesterday, I think you talked about a quote that you
18 heard about \$100 million?

19 THE WITNESS: Uh-huh.

20 MR. MITCHELL: Is that trying to do what
21 you -- at the time, you didn't remember exactly what it
22 was. So I'm doing what lawyers call refreshing your
23 recollection.

24 Is this the document that you -- do you
25 think this is what you were remembering yesterday?

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1 THE WITNESS: Remembering about what?

2 MR. MITCHELL: Sorry. The top says, "There
3 is a community of investors with the same vision."

4 So I guess let me start with that. What is
5 that? What did you mean when you put that?

6 THE WITNESS: I don't think I created this
7 slide. So I can't say exactly. But I think the way I
8 would have explained -- because I think I probably did
9 present this slide -- is we ask people if we were or
10 somebody like us was to launch a new cryptocurrency,
11 how much of it would people buy? And this is some of
12 the responses we got.

13 MR. MITCHELL: And the next slide is more
14 of that same answer where there is a -- the market data
15 supports this opinion. I don't mean to be confusing.
16 Let me just ask it in a different way.

17 The next slide says, "Market data supports
18 this opinion."

19 What's this slide about?

20 THE WITNESS: I think this is pointing to
21 what I would guess is other data in that study, we'll
22 call it, just highlighting some of the data from that,
23 you know, when the launch of cryptocurrency is being
24 launched at this point. And I think it's just
25 presenting some data on some of the things that are

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1 getting launched. And then some data on a hypothetical
2 for Kik.

3 MR. MITCHELL: So the survey you're talking
4 about, that's the CoinFund survey?

5 THE WITNESS: That would be my guess.

6 MR. MITCHELL: If I can point you to the
7 bottom left of that page. It says, "Source, CoinFund
8 crypto investor survey."

9 Do you see that?

10 THE WITNESS: Then, yes, probably that's
11 what it was.

12 MR. MITCHELL: On the right, it says,
13 "Hypothetical Kik." And then there is words
14 underneath. "An established product that tens of
15 millions of users integrating a platform token for
16 their digital community."

17 Do you see where I read that?

18 THE WITNESS: I do, yeah.

19 MR. MITCHELL: That description was sort
20 of, in the survey, was the attempt to sort of come up
21 with the hypothetical Kik token without actually
22 telling people Kik's name?

23 THE WITNESS: Correct. That's what it
24 looks like.

25 MR. MITCHELL: The next page that ends in

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1 752. It says, "What will we do with this
2 cryptocurrency?"

3 What are you doing -- when you talked about
4 this, what were you telling people?

5 THE WITNESS: I think what we're trying to
6 do here is to try to simplify and make as concrete as
7 possible the steps to launching a cryptocurrency and
8 what that might look like for us.

9 MR. MITCHELL: These steps aren't exactly
10 what got done in the end, right?

11 THE WITNESS: Yeah. I think this was the
12 -- our best understanding at the time when we looked
13 at, you know, the industry at large, and also sort of
14 our early thoughts about what it might look like if we
15 were to launch our own cryptocurrency.

16 MR. MITCHELL: If you flip to the next
17 page, it says, "Next steps for the ICO."

18 THE WITNESS: Yep.

19 MR. MITCHELL: There is a line that says,
20 "Announce ICO on May 24th at Token Summit."

21 THE WITNESS: Yeah.

22 MR. MITCHELL: By March 30th, 2017, you had
23 your eye on making an announcement at that May 24th
24 event?

25 THE WITNESS: I believe so, yeah. That's

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1 what it looks like.

2 BY MR. LEASURE:

3 **Q Can I ask: On this slide, this second**
4 **point says, "Establish GTM strategy"?**

5 A Yep.

6 **Q What's GTM?**

7 A Go-to-market.

8 **Q So there was some thinking about a**
9 **marketing strategy for a token sale?**

10 A Go-to-market is not a marketing strategy.

11 Go-to-market -- marketing is a piece of it. A
12 go-to-market strategy is how you get a technology
13 adopted broadly; how you design the technology, how you
14 design the product, how you communicate that product,
15 how you get people to adopt it, all of the pieces to
16 get people to adopt a new technology.

17 **Q Got it. I apologize. Marketing is just a**
18 **piece of that, there is other things going on?**

19 A Yeah.

20 **Q Okay.**

21 MR. MITCHELL: The page that ends in 755,
22 two pages on, just has some people sitting on their
23 phones and the word "questions."

24 Do you remember getting questions?

25 THE WITNESS: I don't remember. I don't

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1 THE WITNESS: Usually when we don't include
2 slides it's because they're not additive to what we're
3 trying to communicate. It's usually not because --
4 maybe, you know, we don't quite like the idea, or maybe
5 it's articulated wrong, or maybe it's just confusing.
6 Like, there is lots of ideas -- or lots of reasons for
7 why slides back here wouldn't ultimately end up making
8 it to the main presentation.

9 MR. MITCHELL: Can you flip to the
10 page 763. It says at the top right, "Is it
11 cryptocurrency?"

12 THE WITNESS: Okay.

13 MR. MITCHELL: Do you have any memory of
14 why this wasn't included?

15 THE WITNESS: I can't remember why. If I
16 were to give my best guess, it probably felt probably
17 too in the weeds for the first introduction.

18 MR. MITCHELL: Anything in there -- looking
19 at it now, is there anything that looks sort of not
20 correct to you?

21 THE WITNESS: In the slide itself, 763?

22 MR. MITCHELL: Yeah. Something you didn't
23 thing was true at the time?

24 THE WITNESS: So I think the first two
25 bullets seem accurate to me. The third bullet is not

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1 remember specifically or even generally if there were
2 or were not questions.

3 MR. MITCHELL: The slides after the
4 questions, do you think you also did these as well --
5 spoke?

6 THE WITNESS: I don't think I -- I'm pretty
7 sure I would not have created these. But I think if I
8 had to guess, these were included in the back as sort
9 of working slides that weren't ultimately presented.

10 MR. MITCHELL: What makes you think that?

11 THE WITNESS: It's just typically how we
12 produce slide decks is, you know, we have lots of
13 different slides, and we keep them at that back. We
14 don't delete them in case we change our mind and we
15 want to bring them into the presentation. You know,
16 nobody sees this actual deck itself. They just see it
17 being presented. So if -- we can stop it wherever we
18 want.

19 MR. MITCHELL: So looking at the slides, do
20 you think that there were -- do you remember why these
21 weren't presented, any of them?

22 THE WITNESS: I don't remember why.

23 MR. MITCHELL: Do you remember seeing,
24 like, a factual error, or, you know, something you
25 don't want to tell people in these?

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1 really a factual statement. Maybe it was part of a
2 narrative to try to explain what we were doing.

3 MR. MITCHELL: The name "Kik coin," you
4 mean?

5 THE WITNESS: Well, this slide wasn't
6 ultimately used, right? So this would be a working
7 slide. So you asked me what I think is true on this.
8 The first two seem to be just basic industry
9 definitions, the first two bullets. The third bullet,
10 you know, I think is, like, probably part of a
11 narrative. But on this slide, it doesn't really make
12 sense. It doesn't connect to anything. So this was
13 probably just a working slide. So when you asked me is
14 it true, the third one, you know, it's not really a
15 true-or-false question.

16 MR. MITCHELL: Sure. As a matter of slide
17 construction, though, it doesn't seem to go here is
18 what you're saying?

19 THE WITNESS: It just seems like, what is a
20 cryptocurrency -- like, 1 and 2 are what a
21 cryptocurrency is. The third is something else.

22 MR. MITCHELL: The next slide at 764, it
23 says, "Team structure." I've just never seen something
24 like this. What is -- is this -- looking at it now, do
25 you know what this is? Like, what is this describing?

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1 THE WITNESS: This might have been a
 2 working slide. I don't know what this is. This might
 3 have been a working slide for the section on the
 4 product process, trying to describe how teams are
 5 organized. But I'm not sure.
 6 MR. MITCHELL: I'll take you to the last
 7 page, which is 766.
 8 THE WITNESS: Yeah.
 9 MR. MITCHELL: Is there something -- do you
 10 have any memory of why this wasn't used?
 11 Do you know whether this was used or not
 12 used?
 13 THE WITNESS: Why which?
 14 MR. MITCHELL: This slide, 766. Do you
 15 know whether it was shown to people?
 16 THE WITNESS: I think this looks very
 17 similar to an earlier slide.
 18 MR. MITCHELL: Which slide?
 19 THE WITNESS: Slide -- Bates number 9750.
 20 MR. MITCHELL: Looks a lot like the slide
 21 that has at the top, "There is a community of investors
 22 with the same vision"?
 23 THE WITNESS: Yes.
 24 MR. MITCHELL: I totally see that. I
 25 actually meant to flip you to the next page, which is

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1 766.
 2 THE WITNESS: Okay.
 3 MR. MITCHELL: Do you know whether that was
 4 shown at the meeting?
 5 THE WITNESS: I don't believe this was
 6 shown at the meeting. But I can't say for sure.
 7 MR. MITCHELL: Do you remember why?
 8 THE WITNESS: I don't remember if it was or
 9 wasn't shown. So I don't remember why hypothetically
 10 it would or would not be shown. I don't recognize this
 11 slide.
 12 MR. MITCHELL: Is there anything in that
 13 slide that is factually incorrect?
 14 THE WITNESS: I think in the first
 15 bullet -- there is two bullets here -- "Because there
 16 is a finance supply of Kik coin, when demand for Kik
 17 coin increases, the price also increases." I think
 18 that that should be changed to: If demand for Kik coin
 19 increases, the price also would increase.
 20 The second point, "Investors will want to
 21 buy low and sell high." I think what that should read
 22 is: If you buy the coin when demand is low and
 23 therefore the price is low, and then the demand goes
 24 up, then the price will also go up.
 25 And so you can either use it at that point,

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1 but you could also sell it at that point to somebody
 2 else who wants to use it.
 3 MR. MITCHELL: That's part of the economics
 4 that we discussed yesterday?
 5 THE WITNESS: Correct.
 6 MR. MITCHELL: Okay.
 7 BY MR. LEASURE:
 8 **Q As of yesterday, we talked about the white**
 9 **paper.**
 10 A Yep.
 11 **Q Just getting to the public announcement**
 12 **that we think happened in late May. On top of**
 13 **publishing the white paper on a web page, what else did**
 14 **Kik do to announce the Kin token?**
 15 A The announcement itself, I believe,
 16 happened at Token Summit in New York City. That was an
 17 announcement on stage. And then we also posted a white
 18 paper. That white paper was also posted on a website.
 19 Outside of that, nothing specific jumps to mind;
 20 although, I'm sure we did lots of things between then
 21 and the token sale itself.
 22 **Q Okay. And we might walk through some of**
 23 **that in a little while. Let's talk about the Token**
 24 **Summit. That was part and parcel of posting the white**
 25 **paper -- in other words, that was part of the raising**

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1 **public awareness of a future token sale?**
 2 A I think that was us trying to stake our
 3 claim to those via the articulation and the opportunity
 4 we saw in the vision and our leadership in pursuing
 5 that vision.
 6 **Q By "leadership," I take it, you being**
 7 **present talking about the vision was showing**
 8 **leadership?**
 9 A I think we wanted to establish that we saw
 10 this vision first. I think we wanted to establish that
 11 this was an exciting vision, that we saw this vision
 12 first. And we were staking the claim that we were
 13 going to go after this vision first.
 14 **Q Why Token Summit as opposed to some other**
 15 **venue?**
 16 A I think we wanted an audience who
 17 understood cryptocurrencies. You know, I think many
 18 people would say, hey, we're launching our own Bitcoin,
 19 and they would just not even know what Bitcoin was,
 20 especially at that time. So we wanted an audience who
 21 understood cryptocurrencies.
 22 **Q Who would then be able to better understand**
 23 **the vision you were articulating?**
 24 A You cannot understand the vision of Kin
 25 unless you understand the fundamentals of

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cryptocurrencies themselves.

Q Got it. And included in that fundamental -- we've spent a lot of time yesterday and even just now talking about the fundamentals of the economics.

You wanted people who kind of got that?

A You can't understand why Kin is a potential business model for Kik and for everyone else unless you understand the fundamentals of blockchain and crypto economics itself.

Q Got it. Okay. Why you? You were the presenter at Token Summit, correct?

A Uh-huh.

Q Why you?

A Because it was my brainchild, my idea.

Q Okay.

A Who better to explain it?

Q How did it go?

A That's a good question. I haven't talked about that for a long time. I don't -- I remember the audience being excited about it. I also remember there being some skepticism that I heard about later in the audience, like, because we were the first centralized company that was doing this.

At the time, blockchain was largely, you know, just very small teams who are starting fresh in

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remember the specifics. But I'm sure I did, yeah.

Q Any other -- do you recall any TV appearances or sort of mainstream media?

A I'm sure there was. I can't recall any specific ones.

Q Were you the -- to the extent there were, I understand you don't recall specifics, would you expect you would be the person, the face, talking for Kik?

A That would be my expectation, yes.

Q Was that true throughout -- because we're in May right now in our conversation.

Was that true throughout up to the token sale, that it was mostly you?

A I can't recall.

Q Do you remember other people at Kik taking the lead on being the face of the...

A I don't remember anybody specifically doing it. But it might have happened. I don't recall.

Q Do you remember was there any particular focus on particular types of news outlets to raise awareness of Kin?

A I can't recall the specific news outlets.

Q Okay. We see a post -- again, this is around the time the white paper was published, we see a post on Medium about the Kin announcement.

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blockchain, had never built companies before. So I remember the reaction being somewhat mixed. But I can't remember specifics.

Q I was going to ask you in terms of any feedback you got. Do you remember any specific feedback you got?

A Just that, what I just shared.

Q We're going to turn to this in a bit.

Prior to the Token Summit, had there been any informal outreach to potential token purchasers already?

A Like, I know CoinFund obviously reached out to people who are buying cryptocurrencies. What other communications happened, I can't recall.

Q That's fine. Okay. On top of Token Summit, any other efforts -- right around the time that the white paper was published, late May, around that time, any other efforts you remember to raise awareness of the upcoming token sale?

A Nothing specifically. But I know there were. We did do things for sure. I can't remember anything specifically right now.

Q I'll represent to you I think I've seen a video of you on CNBC. Does any of that ring a bell?

A CNBC, the name rings a bell. But I can't

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Does that ring a bell for you?

A It rings a bell.

Q Okay. What is Medium?

A Medium is a publishing platform, a blog publishing platform.

Q Does Kik use -- did Kik use Medium to talk about Kin and the Kin token sale?

A Yes.

Q Why?

A I think when we wanted to explain our vision to people, one way we would do that is I would explain it on stage at Token Summit. Obviously not everybody was at Token Summit. So we wanted to explain it to as many people in as many different ways as possible for them to see the vision we saw, to be excited about it, and to want to be a part of it.

Q I should've asked before. Token Summit was in 2017, it was in New York; is that right?

A Correct.

Q Let me show you a document. I'm marking this as Exhibit 200.

(SEC Exhibit No. 200 was marked for identification.)

BY MR. LEASURE:

Q Exhibit 200 is a multi-page printout of a

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1 document titled "Announcing Kin, a Cryptocurrency for
2 an Open Future." It has no Bates stamp. I'll
3 represent to you that I, myself, printed this off of a
4 website called Medium.com. I printed it off on
5 October 25th, 2018.

6 Do you recognize this document?

7 A I do.

8 Q What is this?

9 A I believe this is me announcing Kin and
10 explaining Kin on Medium.

11 Q Got it. Okay. It looks -- if you look on
12 the bottom left, there is a long URL.

13 A Yep.

14 Q Medium.com/kinblog/ --

15 A Yeah.

16 Q Did Kik set up a blog on Medium to post
17 items about Kin?

18 A I'm not sure if we set one up specifically
19 or if we already had one. But it looks like this was
20 -- because I think we had a Kik blog as well. So it's
21 like a new Kin blog from the URL. But I can't say for
22 sure.

23 Q Kik already maintained its own blog about
24 the messaging app and Kik, the company, on Medium?

25 A I believe so, yes.

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1 Q Did you write this?

2 A I believe I would have taken the lead on
3 writing this and then gotten editorial help from
4 others.

5 Q You're listed here -- sorry. If you see on
6 the top left, there is a photo of you. And you're
7 described as founder and CEO of Kik and Kin.

8 What does it mean to be the CEO of Kin?

9 A I don't think there is a CEO of Kin. I
10 remember actually a discussion around what we should
11 put here for my title because I am the founder and CEO
12 of Kik. I am a founder of Kin. But there is no CEO of
13 Kin. So maybe this should say -- and I remember
14 discussing it, like, founder and CEO of Kik, comma,
15 founder of Kin.

16 But we just left it as founder and CEO of
17 Kik and Kin. So I wouldn't consider myself to be the
18 CEO of Kin.

19 Q This was something you considered and
20 discussed with others at the time, how to describe your
21 relationship to Kin?

22 A Yes.

23 Q And just to make sure I'm clear, I take it
24 you would be comfortable saying you were the founder
25 and CEO of Kik, you're the founder of Kin, but Kin

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1 doesn't have a CEO at all?

2 A Correct.

3 Q Okay. The --

4 A Maybe let me -- because it's a complex
5 thing. Maybe just to double-click on that. Like --
6 and we're trying to figure this out along with the rest
7 of the industry exactly how are these crypto projects
8 organized, like, what do you call the different roles
9 in the ecosystem.

10 So like, for example, internally today, we
11 talk about we have sort of the Kik side of Kik
12 Interactive, Inc., and we have the Kin side of Kik
13 Interactive, Inc. So internally, we would say I am the
14 CEO of both of those.

15 We've also started referring to the Kin
16 side internally as, like, a placeholder name, Acme,
17 Inc. Because it's sort of, like, ConsenSys, for
18 example, is an organization contributing to the
19 development of Ethereum. But they are not Ethereum
20 itself. So Acme, Inc., is contributing to the
21 development of Kin, but it is not Kin itself.

22 Q Got it. So to make sure I understand that
23 and sort of how Kik thinks of itself as an organization
24 today, it's still Kik Interactive, right?

25 A Uh-huh.

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1 Q In part, it has employees who work on Kik,
2 the company, Kik, the messaging app, and those people
3 consider themselves as working for Kik?

4 A Correct.

5 Q But there is also people within Kik, the
6 company, that work on the Kin project, if I can call it
7 that, right?

8 A Yep.

9 Q And internally, you might describe those
10 people as Kin people, or the Kin team, how --

11 A I would say, like, today, it depends who
12 you would ask. You know, there is different leadership
13 teams for both the Kik side of the business and the Kin
14 side of the business. For example, if you were to ask
15 the leadership team today, we are calling ourselves,
16 like, a placeholder, Acme, Inc. We've been referred to
17 in the past as the Kin business unit. We've had
18 different names at different time.

19 Q At least inside Kik?

20 A Inside Kik.

21 Q Ignoring corporate formalities, you're
22 comfortable being the CEO of Kin and Kik?

23 A I'm the CEO of the Kik business and the Kin
24 business unit inside Kik Interactive, Inc.

25 Q That's fine. And then beneath you, I think

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1 you said there is leadership teams on the Kin project.
 2 What's that leadership team, who is that?
 3 A Today?
 4 Q Yeah.
 5 A So the leadership team on the Kin side, the
 6 people working on Kin is -- we have -- do you want
 7 titles, names, or both?
 8 Q Names. If you can do titles, that would be
 9 helpful.
 10 A Maybe I'll just do areas. We have a head
 11 of product, which is Alex. We have a head of
 12 engineering, which is Netanel. We have a -- his title
 13 is president, which is Dany. We have a -- what I
 14 believe her title is chief compliance officer, which is
 15 Eileen. We have a guy named Tanner, who is what we
 16 call my technical advisor. He helps me across both Kik
 17 and Kin. We have Orna, who is HR.
 18 I'm probably missing somebody. But I think
 19 that's -- and we have Matt, who is the chief marketing
 20 officer.
 21 Q What does Matt do particularly?
 22 A Matt is helping market evangelize the Kin
 23 ecosystem.
 24 Q Kik, the company, has three offices; do I
 25 have that right?

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1 A Kik Interactive, Inc.?
 2 Q Correct.
 3 A That's a good question. I'm not sure. Kik
 4 Interactive, Inc., at this point, like, I'm the CEO. I
 5 don't believe -- we do not have a CFO.
 6 Q Let me interrupt you. I think we
 7 miscommunicated. You guys are located currently in
 8 Waterloo, New York, and Tel Aviv?
 9 A Correct. We also have people in LA and San
 10 Francisco. But yes.
 11 Q The people on the Kin project, are they
 12 located in all three offices, are they concentrated in
 13 a particular place?
 14 A The majority are in Tel Aviv, Israel. The
 15 next largest concentration would be New York. And then
 16 from there, they're sort of spread out.
 17 Q Are the marketing efforts focused in a
 18 particular place for the Kin project?
 19 A The people who work on marketing with Kin
 20 are for the most part in New York. But Matt is in San
 21 Francisco.
 22 Q I think we got way away from this document.
 23 Let me return us to it. Just real quick. If you look
 24 at the first paragraph, the second sentence begins,
 25 "The biggest companies use their scale to amass

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1 advertising dollars and give everything else away for
 2 free making it nearly impossible for smaller
 3 competitors to find sustainable business models."
 4 It goes on to describe "copy and crush."
 5 Do you see that?
 6 A I do.
 7 Q That's referring to Facebook?
 8 A It refers to other large companies as well.
 9 But in our case, in Kik's history, it would be Facebook
 10 -- would be the -- the company most doing it to us.
 11 Q That's what I was asking about. We talked
 12 yesterday about Kik's challenges in copy and crush and
 13 the like. Was it mostly Facebook doing that to you
 14 guys or was there another...
 15 A In terms of specifically doing it to Kik,
 16 yes, it was mostly Facebook.
 17 Q There were other companies out there that
 18 may have had -- been dealing with other monopolies or
 19 difficult competition?
 20 A Yeah.
 21 Q Okay. Second page. I just want to point
 22 you to one or two more lines and we'll be done with
 23 this. You provided a link to the white paper.
 24 Do you see that on the top?
 25 A I do.

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1 Q The paragraph after that reads, "Once we
 2 have established the new crypto currency, we will
 3 create demand for it by encouraging people to earn and
 4 spend Kin within Kik, which is used by millions of
 5 people every day."
 6 Was that accurate?
 7 A I think that is accurate, yes.
 8 Q Okay. Actually, I think we covered the
 9 other stuff in this document. I'll take it back from
 10 you. Thank you.
 11 A I was just enjoying rereading this.
 12 MR. MITCHELL: Can I just ask you just a
 13 basic question. The Medium post linked to the white
 14 paper.
 15 THE WITNESS: Yeah.
 16 MR. MITCHELL: Is the Medium post -- is
 17 this like a summary of what you thought were the most
 18 important things? I'm trying to understand why -- why
 19 a Medium post?
 20 THE WITNESS: I think that was just the
 21 best place for me to share with the world my vision and
 22 the best medium to do that.
 23 MR. MITCHELL: I guess I'm just trying to
 24 understand is this -- is this post a summary of the
 25 white paper, or it's the...

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1 THE WITNESS: No. I don't think this --
2 this is not meant to be a summary of the white paper.
3 This is meant to be my vision for the problem I saw
4 with the world and how a cryptocurrency could solve
5 those problems.

6 BY MR. LEASURE:

7 **Q Actually, keep that in front of you because**
8 **I might refer to it in a few minutes.**

9 A Sure.

10 **Q So you helped prepare some documents like**
11 **this Medium post that face the public and talked about**
12 **the Kin project, correct?**

13 A Uh-huh.

14 **Q So when you were preparing those documents,**
15 **did you make an effort not to have those documents**
16 **include the word "investors"?**

17 A I seem to recall we did not want to include
18 the word "investors," yes.

19 **Q Why not?**

20 A I think it's sort of misleading. I think,
21 you know, whenever there is something new, everybody
22 tries to compare it to something from the past. You
23 know, like, it's a classic move in Silicone Valley.
24 You know, this is, what is Airbnb? It's Uber for
25 houses or something like that.

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1 So I think, you know, they're trying to
2 compare it to something in the past where, you know,
3 when people buy something, people could use the word
4 "investors." But I think here, "investor" is the wrong
5 word. You know, I think you're buying a currency
6 because the supply of that currency is fixed, if demand
7 increases, the currency will get more value, become
8 more valuable. That will give me more buying power.
9 That would also give somebody else more buying power.

10 So you could either buy something yourself
11 or sell it to somebody who wants to buy something. So
12 it is built into the fundamentals of cryptocurrencies
13 that a cryptocurrency today could be more valuable
14 tomorrow. But it's not an investment. It's you're
15 buying an asset.

16 MR. MITCHELL: What do you mean buying an
17 asset?

18 THE WITNESS: You're buying a currency.

19 MR. MITCHELL: So the difference between
20 investing -- what's the difference between investing
21 and buying an asset?

22 THE WITNESS: So I can give you my view on
23 this. But let me -- because part of it is, you know,
24 understanding the historical law. So should I give my
25 view on this?

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1 MR. GIBBS: So you can give your view if
2 you can do so without getting into communications with
3 or advice from counsel.

4 THE WITNESS: I did get advice from counsel
5 about the difference between an investment and a
6 security and the difference between a currency. And so
7 that -- I have my own views. But certainly, those
8 views would also be colored by that advice.

9 MR. GIBBS: So my instruction to him will
10 be to not testify to anything that reflects the content
11 of any communications with counsel. If you can offer
12 your view disentangled from any of those
13 communications, fine. If not, I would instruct you not
14 to answer.

15 THE WITNESS: My view is that when you're
16 investing in something -- and why the word "investor"
17 is wrong -- you're investing in something which will
18 generate revenue so that you can get a cut of that
19 revenue back. Whereas in Kin, in cryptocurrencies --
20 and this was a hard thing for our investors to
21 understand, for employees to understand, and I think
22 for the world to understand -- is there is no revenue.
23 There is no revenue.

24 Like, there is an asset. That asset -- the
25 price of that asset is a function of supply and demand.

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1 If you own a piece of that asset, and demand goes up,
2 and the price of that asset will go up. That's just
3 the way it works. But there is no revenue anywhere in
4 that equation. So how could it be an investment?

5 MR. MITCHELL: That's the description
6 between -- that's, in your mind, the difference between
7 an investment and buying an asset?

8 THE WITNESS: That was my -- that's my
9 intuitive view for myself of how I -- like, why I
10 didn't use the word "investor."

11 MR. MITCHELL: I'm sorry. Why you didn't
12 want to use that word in the public-facing documents?

13 THE WITNESS: Right.

14 MR. MITCHELL: And earlier in your answer,
15 though, you said "our investors."

16 And who were you talking about then?

17 THE WITNESS: The shareholders of Kik. The
18 venture capitalists.

19 MR. MITCHELL: Like USV?

20 THE WITNESS: Like USV, like Tencent, like
21 everybody. That group.

22 MR. MITCHELL: What did they -- did they --
23 they invested in Kik?

24 THE WITNESS: They invested in Kik, yes.

25 MR. MITCHELL: What did they get?

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1 THE WITNESS: They got equity.
 2 MR. MITCHELL: And the share of all of
 3 Kik's revenues?
 4 THE WITNESS: They got a share of the value
 5 created by Kik, which historically would be based on a
 6 multiples of revenue for earnings and earnings being
 7 revenues minus cost.
 8 MR. MITCHELL: So I apologize because I
 9 don't know this in detail. What are Kik's earnings?
 10 THE WITNESS: Zero. Or sorry. I should
 11 say when we sold the tokens, we calculated that as
 12 revenue. So we had \$98 million of revenue that year.
 13 But outside that, our revenue was negligible.
 14 MR. MITCHELL: So did you understand that
 15 Tencent invested in Kik in order to obtain some type of
 16 revenue stream, like a piece of Kik's revenue?
 17 THE WITNESS: I think if we had said to
 18 Tencent -- let me do it another way -- that Kik is
 19 never going to make any revenue, that they wouldn't
 20 have invested.
 21 MR. MITCHELL: Did you discuss with them
 22 paying dividends?
 23 THE WITNESS: Not at the time, no.
 24 MR. MITCHELL: Have you ever discussed with
 25 Tencent paying dividends?

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1 THE WITNESS: I haven't discussed it with
 2 Tencent. But I have discussed it with other investors.
 3 MR. MITCHELL: When?
 4 THE WITNESS: I can't recall exactly.
 5 MR. MITCHELL: Before or after the Kik/Kin
 6 token idea came up?
 7 THE WITNESS: To me, probably before. I
 8 can't recall specifically.
 9 MR. MITCHELL: And is it your understanding
 10 that -- let's say take USV. Did USV buy Kik's stock in
 11 order to get dividends?
 12 THE WITNESS: If -- probably not.
 13 MR. MITCHELL: Why not?
 14 THE WITNESS: Because there wasn't a viable
 15 model at the time. Nobody else was doing that.
 16 MR. MITCHELL: So what do you think -- what
 17 do you think USV invested in?
 18 THE WITNESS: Our ability to generate
 19 revenue through advertising or selling, selling things
 20 to our users directly. Those would be the only two
 21 options.
 22 MR. MITCHELL: Did you understand that USV
 23 was buying Kik stock because it thought the stock could
 24 appreciate in the future and it could sell the stock at
 25 a higher price?

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1 THE WITNESS: I think they bought it
 2 thinking that Kik could, through traditional business
 3 models -- either through advertising or selling items
 4 like every other company in history could do so
 5 profitably -- and if so, the equity would be worth more
 6 money and that they could sell it at a higher price in
 7 the future.
 8 MR. MITCHELL: Is that the same for -- I
 9 apologize. What's the name of the San Francisco --
 10 Foundation. Is that the same for the investment by
 11 Foundation Capital?
 12 THE WITNESS: I think that's probably true
 13 for all venture capitalists.
 14 BY MR. LEASURE:
 15 **Q We've been talking about your understanding**
 16 **of whether Kin is an investment or not, and whether Kin**
 17 **purchasers are investors or not, right?**
 18 A I think what I was trying to describe is
 19 why I didn't like the word "investors." There is many
 20 reasons I don't think it's an investment. But I was
 21 just trying to describe why I don't like "investor."
 22 **Q Fair enough. I'm just trying to reorient**
 23 **the conversation. We were talking about your**
 24 **understanding. And separately, you had obtained an**
 25 **understanding through communications with counsel on**

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1 **these topics; is that right?**
 2 A Correct.
 3 **Q We don't want to hear about the contents of**
 4 **those communications. If you're about to tell me,**
 5 **stop. And look at Patrick, and not me.**
 6 **We're looking at the white paper, May of**
 7 **2017, going -- announcing Kin. Did those conversations**
 8 **with counsel happen before this time?**
 9 A Before May of 2017?
 10 **Q Yeah. Can you roughly place it in time?**
 11 A I can't recall when those conversations
 12 began.
 13 **Q Did they happen before September of 2017,**
 14 **the public token sale?**
 15 A I can't remember. Before September 2017,
 16 yes, I'm sure they would have --
 17 **Q I'm just trying to orient --**
 18 A I can't recall specifically, but I'm sure
 19 they would have.
 20 **Q So you don't know if they happened before**
 21 **or after the public announcement?**
 22 A I can't recall.
 23 **Q But you're sure they happened before the**
 24 **public token sale?**
 25 A Correct.

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1 Q And which counsel -- again, I don't want
2 you to give me the content of communications. But I
3 can ask when and who.

4 Which counsel did you have in mind?

5 A I would think it would be Cooley.

6 Q Okay. Any lawyers in particular?

7 A The lawyer who had been with us almost
8 since the beginning. A woman by the name of Nancy
9 Wojtas.

10 Q W-o-j-t-a-s?

11 A Yes. I think. So my expectation would be
12 that I would -- she would be my point person.

13 Q She had been corporate counsel for Kik for
14 a while by that point?

15 A Right. I believe since somewhere in 2009,
16 2010, somewhere in there.

17 Q Right. Not retained just in connection
18 with Kin?

19 A Right.

20 Q Anyone else? Again, I'm just asking the
21 "who" in terms of the lawyers you recall communications
22 with on this topic.

23 A I recall that being my point person. I
24 can't remember anybody else specifically.

25 Q Fair enough. Keep that in front of you.

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1 Let me show you a document quickly.

2 Marking this as Exhibit 201.

3 (SEC Exhibit No. 201 was marked for
4 identification.)

5 BY MR. LEASURE:

6 Q Exhibit 201 is a multi-page printout of an
7 e-mail chain ending May 22nd, 2007, from Ted Livingston
8 to Hamish, H-a-m-i-s-h, McKenzie, with the subject "New
9 Version of Medium Piece." It begins with the Bates
10 stamp KIK 26895.

11 Mr. Livingston, what is this document?

12 A What it looks like is Hamish and I
13 discussing the draft of the Medium post.

14 Q Hamish helped you -- is it your
15 recollection Hamish helped you draft this Medium post?

16 A It's my recollection that he helped me edit
17 it, yes.

18 Q The Medium post is Exhibit -- do you
19 believe that's -- what ultimately was Exhibit 200?

20 A Yes.

21 Q So it's sometimes hard to tell, but if you
22 look in your e-mail, at the top of page 1, you write,
23 "See attached. We're really starting to flow. We are
24 getting close. See comments attached."

25 A Yep.

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1 Q Do you see that?

2 A I do.

3 Q Does it appear to you -- you can see some
4 edits on the third page of this, comments -- comment
5 bubbles on the right. Do you see that?

6 A I do.

7 Q Do you believe that's you commenting on a
8 draft from Hamish?

9 A I do.

10 Q Okay. And I know it's a little -- it can
11 always be a little confusing with who is editing what.
12 I appreciate that. Pointing to comment T4 -- correct
13 me if I wrong -- it looks like the original draft said,
14 "Once we've established the new cryptocurrency (some of
15 which will be sold to investors via auction)."

16 And the comment here reads, "They aren't
17 investors but 'participants.' I think better to just
18 leave out?"

19 Did I summarize that edit accurately?

20 A Yep.

21 Q Is that you saying -- in so many words, is
22 that you saying they're not investors but participants?

23 A I think that's me saying the word
24 "investors" is incorrect because of all of the things
25 we just discussed. But the word -- we don't know what

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1 the right word is because this is a fundamentally new
2 thing. But the word we're leaning towards right now is
3 the word "participants."

4 Q You said "we" and "leaning towards." Was
5 that a topic of discussion within Kik what word to use?

6 A I think it was a topic in the industry at
7 the time, and also a topic internally. I think
8 everybody was trying to figure out what this thing was
9 and how to describe it.

10 Q Again, I'm admonishing you I don't want to
11 hear about conversations with Nancy or other lawyers.

12 What can you remember about the internal
13 discussions within Kik about how to describe people who
14 bought Kin, whether investors, participants, some other
15 word?

16 A I don't recall any specific conversations
17 about it.

18 Q Do you remember who you might have been
19 discussing it with, if anyone?

20 A I don't recall.

21 Q Okay. What did you ultimately go with,
22 what word?

23 A I can't recall. But it looks like this
24 edit, we just took this out.

25 Q Fair enough. And leaving aside this

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1 particular document, this particular Medium post, how
2 do you prefer Kik to describe people who bought Kin?

3 A I think the most accurate term today -- if
4 I were asked to be true today -- this is off the top of
5 my head and maybe there are better words -- but it's
6 probably the word "purchasers."

7 Q Just the fact that they bought Kin either
8 in September 2017 or some other time, they purchased
9 Kin?

10 A Correct.

11 Q Why not participants?

12 A I think it's just like a stylistic thing.
13 Like, participant -- participants in what sum? Like,
14 you know, is it some relay race? It's more of a
15 marketing thing I think. I just think it's an unclear
16 word.

17 Q In terms of substance -- is it possible
18 that someone in September of 2017 bought Kin and has
19 done nothing to participate in the Kin ecosystem to
20 date?

21 A It's possible.

22 Q Is that a concern you have with the word
23 "participants," or is it just a stylistic thing?

24 A I hadn't thought of that. So no, that
25 wasn't a concern.

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1 A Typically, no.

2 Q Who does?

3 A That'd be our communications guy.

4 Q Who at the time -- we're in May of 2017.
5 Who was that?

6 A I would believe it to be Rod.

7 Q Is he still your communications guy?

8 A He is not.

9 Q When did he leave Kik?

10 A Recently.

11 Q Why did he leave Kik?

12 A He was let go.

13 Q Why?

14 A The only reason that I'm hesitating is
15 because it feels, like, a little crappy to talk about
16 somebody else being let go.

17 Q Sure. I don't want to get into stuff.

18 Was his being let go in any way in
19 connection with this investigation?

20 A No.

21 Q Was it in connection with problems about
22 communicating about Kin?

23 A No.

24 Q Okay. Was it personal matters?

25 A I think it was -- I think the gist of it --

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1 (Simultaneous speakers.)

2 A I just think it's an unclear word.

3 Q Fair enough. I'll take that back from you.
4 I'll take them both back actually. Thank you.

5 We also see an actual -- again, we're in
6 May, public announcement -- we see an actual press
7 release by Kik. Does that ring a bell for you?

8 A Typically, whenever we would do
9 announcements, we would also file a press release. So,
10 like, seems likely.

11 Q What does that mean to file a press
12 release? What happens?

13 A I'm not exactly sure what happens. My best
14 guess from my knowledge of it is if you're doing
15 something and making an announcement, you know, you
16 talk to a bunch of different people, you stand on a
17 stage at a Token Summit. You also can write a press
18 release and post it to the newswire just in case
19 anybody happens to come across it and wants to write a
20 story.

21 Usually they don't result in stories so I'm
22 not sure the effectiveness of press releases. But it
23 seems to be a common practice in the industry.

24 Q Typically, do you review press releases
25 before they're sent out?

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1 and you let me know if you want more details -- was we
2 hired a new head of marketing, Matt, our chief
3 marketing officer. He inherits a team when he comes
4 in. There is many people in place. He has to put the
5 team in place that he feels is best. And he did not
6 feel that Rod was the right choice for his team.

7 Q That's fine. That's good. As I said
8 yesterday, we see documents and don't really -- you
9 know, we don't have opportunities to talk to people
10 about what actually happened and what it felt like. So
11 I'm going to seize that opportunity.

12 Impressionistically, from our end, it seems
13 like a lot of people at Kik, including more senior
14 people, left the company shortly before or maybe after
15 the Kin token sale?

16 A Yep.

17 Q That's our impression.

18 A You have the right impression.

19 Q Why did that happen?

20 A Why did that happen? That is a good
21 question.

22 Q And I'm very happy not to talk about the
23 individuals in personal situations if that makes you
24 uncomfortable. Just generally, I just wanted to see
25 what was happening within Kik.

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1 A Why that happened is because as we started
2 to struggle with Kik in 2014, the impression -- you
3 know, the simplest explanation is the people running
4 the company don't know what they're doing. We need to
5 bring in new people. So that's what we did.

6 **Q In 2014?**

7 A Starting in 2014, 2015, 2016, 2017 -- 2016,
8 2017, we brought in a lot of new people, new leaders,
9 who had the experience who could help us turn this
10 around because, obviously, the previous leadership team
11 didn't know what they were doing because if they did,
12 we wouldn't be in this situation. So I made the hard
13 decision to effectually swap out a bunch of my first
14 leadership for this new leadership team, one person at
15 a time. That new leadership team came in.

16 Many of them tried to help to the best of
17 their ability. But for whatever reason, things only
18 got worse. As things got worse, people started to
19 blame each other and blame me for things getting worse.
20 And the team itself became incredibly dysfunctional.

21 But as you're, you know, declining and
22 failing, it's pretty much impossible to hire new
23 people. You know, it would be very hard for me to say
24 to somebody, hey, you should go work here, it's great
25 to work here. Because that would not be the truth.

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1 The truth was it was horrible to work here.

2 That would be the truth. So as it became
3 clear that we weren't going to die, and we actually had
4 a winnable strategy once again --

5 **Q The Kin project?**

6 A The Kin cryptocurrency business model and
7 strategy around that business model. It -- I needed to
8 clean up the team. And that's what I did.

9 **Q And so it was you trying -- the people --**
10 **the phenomenon of people leaving the company, that was**
11 **you -- during and after the Kin transformation or**
12 **business model -- you cleaning out earlier -- the**
13 **earlier team?**

14 A So I think if you look at -- I have two
15 leadership teams today. We talked a little bit about
16 that earlier, right? The Kik business side and the Kin
17 business unit. If you look at the people that report
18 to me today across each of those two teams, I believe
19 when we announced Kin, the people that reported to me
20 then versus the people that report to me today, other
21 than my EA, who still reported to me then, still
22 reports to me today -- but in terms of, like, the
23 leadership team members, only one person who reported
24 to me then still reports to me today.

25 **Q Who is that?**

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1 A I believe that's Dany Fishel.

2 **Q And have you replaced -- at least on the**
3 **Kin side, have you replaced the earlier team with**
4 **people who might have more familiarity -- or at least**
5 **willing to learn about crypto and being a part of a**
6 **crypto project?**

7 A In some cases, yes. In some cases, they
8 were internal promotions. Each -- it's a sort of
9 case-by-case basis.

10 **Q That's fair. Let's go back to May.**

11 **At the time of the May announcement that**
12 **we've been looking at for a while now, what was the**
13 **plan for distributing and selling Kin tokens?**

14 A In May?

15 **Q Yeah. When you made the public**
16 **announcement, what was the plan?**

17 A I think the plan, loosely, would be the
18 plan of any new cryptocurrency, which is we're going to
19 create a new cryptocurrency. There is only going to be
20 so much of it. We're going to sell some to people who
21 want to be a part of this. And we're also going to
22 integrate it into Kik.

23 **Q And eventually -- just talking about the**
24 **sale itself, leaving out those other -- the creation**
25 **and integration -- at the time, was there a plan for a**

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1 **two-step selling process?**

2 A I don't believe so, no.

3 **Q When did that emerge?**

4 A I can't recall exactly when that emerged.
5 But my best guess would be somewhere, obviously, after
6 the announcement. But, obviously, before the sale.

7 **Q And just to clarify terms. In the event,**
8 **in terms of what actually happened, was there a process**
9 **where rights to Kin tokens were first sold to wealthier**
10 **private investors through SAFTs?**

11 A Sorry. What's the question? Sorry. Can
12 you say it again? I just blanked.

13 **Q That's fine. I want to understand what**
14 **actually happened. And then ask you when the plan for**
15 **that emerged.**

16 A Okay.

17 **Q So in terms of what actually happened, were**
18 **rights to Kin first sold to wealthy investors via SAFT,**
19 **S-A-F-T, agreements?**

20 A We created a SAFT agreement and did do a
21 presale to accredited investors. I believe so, yes,
22 would be a good way to describe that.

23 **Q So can we call that the presale?**

24 A Yeah, let's call that the presale.

25 **Q That happened, I guess, because the prefix**

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1 "pre," that happened before the public sale?

2 A That happened before the sale, yes.

3 Q Okay. The sale. Okay. When did the plan
4 for that structure -- first the presale, then the
5 sale -- emerge?

6 A I can't recall exactly. But it seemed to
7 be a thing in the industry at that time. So I assumed
8 that's where it started, but I'm not sure. I can't
9 recall.

10 Q Why was it done that way with that two-step
11 process?

12 MR. GIBBS: Just --

13 THE WITNESS: Based on advice from counsel.

14 MR. GIBBS: I think he's answered as far as
15 he's comfortable answering. He knows I'm going to
16 instruct him not to disclose the contents of advice
17 from counsel, but I --

18 THE WITNESS: We were advised to do it that
19 way by counsel.

20 MR. GIBBS: That was right where I didn't
21 want you to go. But that's fine.

22 BY MR. LEASURE:

23 Q I don't want to know about advice from
24 counsel or what advice they gave you.

25 Was there -- leaving that aside --

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1 well.

2 Q And the opportunity to get cash quickly
3 into the business presale, why was that helpful?

4 A Because we didn't have much cash. And we
5 were spending cash, and we were running out of cash.

6 Q So it helped -- we talked about a runway
7 yesterday. Did this help with the runway?

8 A Yes.

9 Q Would that help the Kin project also to get
10 cash in early?

11 A Would that help the Kin project?

12 Q I'm trying to see if this was just to get
13 cash into Kik, the company, or if getting cash from
14 presale investors was helpful for building out or
15 developing the Kin project specifically?

16 A Say that one more time.

17 Q Absolutely. You get cash in from presale
18 investors --

19 A Yep.

20 Q -- and that helps extend the runway?

21 A Yep.

22 Q So what I'm trying -- I'm trying to
23 understand if the cash that was brought in was used
24 just to keep funding Kik, the business, and keep it
25 alive, or was it used in some way to help forward the

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1 A No. I can't even say that. I'll stop.

2 (Simultaneous speakers.)

3 BY MR. LEASURE:

4 Q Was there an independent business reason to
5 sell -- aside from advice from counsel was there a
6 business reason you were aware of to sell first to
7 accredited investors via a SAFT and then to a public
8 sale?

9 A I'm trying to figure out what was advice
10 from counsel versus what was not.

11 Q I'm trying to figure out if there was a
12 "what was not" in there that we can talk about.

13 A That's what I'm trying to figure out as
14 well.

15 Q Take your time.

16 A I think -- so maybe -- why did we do -- why
17 did we split the two apart is -- like, I don't think I
18 can talk about. But I think what was compelling about
19 doing a presale is you had people who deeply understood
20 blockchains and sort of the crypto industry.

21 And you had people who just understood
22 blockchain and cryptocurrencies period and so could
23 understand Kin as a business model for Kik and other
24 developers. And I also think there was an opportunity
25 to get cash into the business quickly in a presale as

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1 Kin project and advance of the token sale?

2 A The cash was used to keep Kik running, yes.
3 Because we had to keep Kik running. It was also used
4 to put together and create the cryptocurrency as well.

5 Q On that latter piece -- put together and
6 create the cryptocurrency -- how was it deployed?
7 What happened?

8 A We had to write an ERC-20 smart contract.
9 We had to get that audited. We had to write the public
10 -- the token sale contract. We had to integrate it
11 into Kik. We had to do a bunch of different things
12 related to the Kin sale.

13 Q Pay for those efforts, both Kik employees
14 working on that or maybe contractors working for Kik?

15 A Yes.

16 Q Anything else?

17 A Probably were other things. But related to
18 those things two things like Kik or creating Kin.

19 Q I think Kik -- correct me if I'm wrong --
20 Kik didn't spend all of the money raised in the presale
21 by September of 2017; is that right?

22 A Correct.

23 Q And is that money still being used both for
24 Kik, the business, and for Kin, the project?

25 A Yes.

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1 **Q** Okay.

2 A I would say Kik the messenger.

3 **Q** Thank you. That's a better way. That's

4 what I was trying to ask, in fact.

5 And people who bought SAFTs, they didn't

6 get Kin tokens the day they bought a SAFT; am I getting

7 that right?

8 A Correct.

9 **Q** How did the SAFT work?

10 A My understanding is SAFT stands for Simple

11 Agreement for Future Tokens. So they would invest

12 money today with the promise of getting tokens in the

13 future.

14 **Q** What happened if those public sale -- if

15 the tokens were never created?

16 A I don't recall exactly. But I think there

17 would be some sort of refund. But I don't recall

18 exactly.

19 **Q** We see references in earlier documents

20 before the public -- before the SAFTs were executed and

21 the sale -- about within Kik, the idea of selling

22 tokens to people in different tranches maybe over time.

23 Does any of that ring a bell for you?

24 A It does ring a bell.

25 **Q** What can you tell me about that?

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1 A Selling -- sorry. Say it again. Selling?

2 **Q** Selling to different people in different

3 tranches. Maybe like a phased sale and --

4 A I believe, in the presale, one of the

5 things that was common -- like in any time you're

6 selling something, it's -- like, the first person to

7 buy it, you know, is taking that first leap. So they

8 would get a better price. So I think that was a common

9 thing in the industry at the time. I can't recall if

10 we ended up doing that or not.

11 MR. MITCHELL: Did people who -- did people

12 who purchased tokens using a SAFT get a discount to the

13 price that was paid by the public?

14 THE WITNESS: They did.

15 MR. MITCHELL: A 30 percent discount?

16 THE WITNESS: I believe so.

17 BY MR. LEASURE:

18 **Q** Let me show you a document that might

19 relate to some of this. This is a document previously

20 -- this is a document with my handwriting on it so I'll

21 give you one without it -- marked Exhibit 18A. I'm

22 going to give you an accompanying document with it

23 because I think it might relate to it, the same board

24 meeting. This is a document previously marked as

25 Exhibit 27.

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1 A Okay.

2 **Q** As always, take your time. I'm going to

3 point you to specific parts because, obviously, 18A in

4 particular is a larger document.

5 My first question is going to be: What is

6 Exhibit 18A?

7 A Looks like the presentation used at a board

8 meeting on May 23rd.

9 **Q** What's Exhibit 27?

10 A Looks like meeting minutes from that

11 meeting.

12 **Q** Do you remember this meeting?

13 A I don't recall it specifically. But it

14 looks familiar.

15 **Q** Do you remember any discussion at that

16 meeting about Kin?

17 A It looks like we did discuss Kin, yes.

18 **Q** Do you remember that discussion, though?

19 A I do not.

20 **Q** That's okay. Let me point you to a few

21 places in Exhibit 18A, the board decks, just to orient

22 you. If I could point you to the one ending Bates

23 stamp 106872.

24 A Okay.

25 **Q** "Where we are."

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1 A Yes.

2 **Q** Do you see that?

3 A Yes.

4 **Q** Does this appear to be shortly before the

5 publication of the white paper and the Token Summit?

6 A I can't recall exactly when Token Summit

7 was so -- but from the notes, it looks like it was

8 before.

9 **Q** That's fair. Again, I just want to orient

10 you to my best sense --

11 A When was the Token Summit?

12 **Q** May 25th --

13 A Okay. Looks like two days before.

14 **Q** Something like that. Let me point you to

15 page 26 of the deck, which is 106893.

16 A 893. Okay.

17 **Q** Again, we were talking about the plan for a

18 token sale and what the structure might look like. I

19 want you to take a look at the chart here. It's

20 entitled "Token Sale Structure (Soft Cap)."

21 A Uh-huh.

22 **Q** If you can take a look at that and just say

23 is that rough -- first, do you believe that was the

24 plan at the time for the sale of Kin?

25 A I think -- I can't remember exactly the

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1 conversation. But this looks like a straw man of what
2 could be the structure.

3 **Q So this wasn't finalized at this point?**

4 A I don't believe so, no.

5 **Q Do you remember when it was finalized?**

6 A I do not remember.

7 **Q Does this -- how does this -- I think you
8 said straw man?**

9 A Yes.

10 **Q How did this straw man differ from what
11 actually happened?**

12 A So 10 trillion tokens, that was true.
13 Float offered. I would say, amount initially sold, 10
14 percent. The 10 percent number is true. The tranches,
15 I can't recall what ended up we'd be doing for the
16 SAFT. I can't remember if it was just, like, a flat
17 30 percent discount across all presale investors. I
18 can't recall. And then I don't think there was any
19 discounts in the public sale.

20 **Q Right. Okay. At this time -- correct me
21 if I am wrong --**

22 A I can keep going actually. Soft cap, we
23 didn't end up going with the soft cap. We ended up
24 going with the hard cap.

25 **Q Of 100 million?**

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1 A 125 million.

2 **Q I apologize.**

3 A Sale time, I don't think that's the amount
4 of time we used in the end. But I can't recall
5 exactly.

6 **Q Okay. So at this time, there was some
7 straw man or consideration in place for doing a SAFT
8 versus a public sale structure?**

9 A Yes. That's what it appears to be.

10 **Q But the details were altered after this?**

11 A Yeah. I would say the details were
12 iterated on.

13 **Q And you don't recall --**

14 A And the structure was iterated on with the
15 details also.

16 **Q Okay. Fair enough. But you don't recall
17 when the final details were agreed upon?**

18 A I do not. I'm sure it's in an e-mail
19 somewhere.

20 MR. MITCHELL: The 10 trillion total
21 supply, did that ever -- the plan at this point in time
22 of this document was for -- the Exhibit 18A was for
23 there to be 10 trillion tokens overall; is that right?

24 THE WITNESS: Yes.

25 MR. MITCHELL: And that Kik would sell 10

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1 percent of them?

2 THE WITNESS: Correct.

3 MR. MITCHELL: Did that change at the time?

4 THE WITNESS: That's what we ended up
5 doing. We might have looked at other options between
6 here and there. But that's what we ended up doing.

7 MR. MITCHELL: Do you remember looking at
8 any other options?

9 THE WITNESS: I remember us looking at lots
10 of different options for different parts of this. I
11 can't recall if we specifically looked at that option.

12 MR. MITCHELL: Was there ever a point where
13 -- the plan to just sell less than 10 percent?

14 THE WITNESS: Not that I recall.

15 BY MR. LEASURE:

16 **Q Can I point you quickly to Exhibit 27. Are
17 these the minutes of the board meeting from May 23rd,
18 2017?**

19 A They appear to be.

20 **Q How are these typically drafted at Kik?**

21 A I believe Nancy Wojtas would write these.
22 They would be circulated. And then they would be
23 approved.

24 **Q By whom?**

25 A By the board members, that they're

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1 accurate.

2 **Q So you would be a part of that approval?**

3 A Correct.

4 **Q Okay. Just to see if it refreshes any
5 recollection. Under the section "Kin Ecosystem," do
6 you see that?**

7 A Yes.

8 **Q "Mr. Livingston reviewed with the board the
9 road map for the Kin ecosystem. He explained the
10 vision of the Kin ecosystem, which encompasses a
11 decentralized ecosystem."**

12 It goes on, "He reviewed the proposed
13 allocation of Kin. 60 percent to the Kin Foundation
14 and 40 percent to Kik with 10 percent to be sold in the
15 presale and public sale of Kin."

16 **Do you see where I read that?**

17 A Yes.

18 **Q Does that refresh any recollection of the
19 discussion at this meeting, the discussion of the plan,
20 anything you can shed some light on?**

21 A I'm not sure. Like, could you be more
22 specific? Like, I'm not sure what your question is.
23 Did we talk about 60 percent for the Kin Foundation and
24 40 percent for Kik?

25 **Q Yes.**

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1 A I think we did.

2 **Q Okay. And you presented this plan to the**
3 **board?**

4 A Correct.

5 **Q Do you recall any discussion around that**
6 **with board members once you presented that?**

7 A Nothing specific. But I'm sure we
8 discussed it, why those numbers.

9 **Q Okay. Did the board approve the -- if you**
10 **look on page 2, it says, "Resolved that the board**
11 **hereby approves the timeline proposed roadmap Kin**
12 **allocation and white paper."**

13 **Do you see that?**

14 A On the same page?

15 **Q I'm sorry. Page 2, 78789. There is a**
16 **"Whereas."**

17 A Yes.

18 **Q And then there is a "Resolved."**

19 A Yes.

20 **Q Did the board approve the timeline proposed**
21 **roadmap Kin allocation and white paper?**

22 A I think when it says, approved the white
23 paper, I'm not sure what that means. I don't recall
24 ever, like, reading the white paper or asking people to
25 approve it. I think maybe approved the idea that we

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1 had a white paper. But I can't recall. I think what
2 this is getting at is the board is good to proceed with
3 the currently proposed timeline roadmap allocation and
4 white paper.

5 **Q Got it. And yesterday, we talked briefly**
6 **about whether there was an act or event that finally**
7 **authorized the sale of Kin tokens? If you recall, we**
8 **talked about whether there was a big red button that**
9 **somebody pushed?**

10 A Yes.

11 **Q Do you recall a board resolution subsequent**
12 **to this that was the equivalent of that big red**
13 **button --**

14 A From a governance point of view?

15 **Q Yeah. Where the board said, proceed to the**
16 **sale?**

17 A I believe there would be, but I can't
18 recall specifically.

19 **Q You don't know which board meeting that**
20 **was?**

21 A I don't recall which board meeting it was.
22 And I don't recall, like, what the governance
23 equivalent is of pushing the big red button.

24 **Q Fair enough.**

25 **Why don't we go off the record.**

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1 MR. MITCHELL: Can I ask just a couple
2 quick ones on this?

3 MR. LEASURE: Of course you can. Let's not
4 go off the record.

5 MR. MITCHELL: At the time, this time in
6 late May, part of the plan was to sell Kin tokens to
7 the public, right?

8 THE WITNESS: Yes.

9 MR. MITCHELL: And were there any points
10 after May where Kik sort of had a plan of like, okay,
11 we're not going to sell to the public. We're just
12 going to sell to the accredited investors?

13 THE WITNESS: I can't recall any specific
14 discussions. But I do recall selling this to the
15 public was very important to me personally and to my
16 view of the success of the project.

17 MR. MITCHELL: Why?

18 THE WITNESS: Because we had a -- the
19 vision for Kin is, was, and has always been very
20 ambitious. You know, it's basically putting together a
21 fundamentally new economic structure, a fundamentally
22 new business model, and a fundamentally new way of
23 working together to take on what have become digital
24 monopolies. And that is a very ambitious task.

25 So I knew and believed that what would

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1 maximize the odds of success would be to have as many
2 people in as many countries as possible feel like they
3 were part of that from the very beginning.

4 MR. MITCHELL: By buying tokens?

5 THE WITNESS: Correct.

6 MR. MITCHELL: Was there any point between,
7 say, this point in the end of May and September where
8 Kik had a plan of not selling to the public?

9 THE WITNESS: I don't recall any specific
10 discussions. It might have been discussed, though. I
11 can't recall.

12 MR. MITCHELL: Was there any point between
13 May and September when -- sorry.

14 During this time, were there discussions
15 about how much to sell to the public versus how much to
16 sell to the accredited investors?

17 THE WITNESS: There were discussions, yes.

18 MR. MITCHELL: Sort of tell me about those.

19 What were the options that people weighed?

20 THE WITNESS: I don't recall all of the
21 steps. But where we landed with 50 million presale and
22 then 75 million sold -- tokens sold in the public sale
23 for a combined 125 million. With the 30 percent
24 discount, it would make the 50 million and the 75
25 million. Meaning, they would get equal parts of that

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1 10 percent, 5 percent each.
2 And that felt symbolically like a very cool
3 statement, that both the private accredited side and
4 the public side would be participating from day one
5 equally.
6 MR. MITCHELL: So the plan was to have the
7 public get about half?
8 THE WITNESS: Yes.
9 MR. LEASURE: Off the record.
10 THE VIDEOGRAPHER: This ends Disc Number 1.
11 Going off the record.
12 The time on the monitor is 11:02 a.m.
13 (A brief recess was taken.)
14 THE VIDEOGRAPHER: This begins Disc Number
15 2. We are back on the record. The time is 11:17 a.m.
16 BY MR. LEASURE:
17 **Q Back on the record after a brief break**
18 **during which, Mr. Livingston, did you have any**
19 **substantive conversations about this investigation with**
20 **SEC staff?**
21 A I did not.
22 **Q So we've talked about May, a Medium post,**
23 **the white paper. Rolling the camera forward, how did**
24 **-- how, if at all, did Kik market the Kin token sale?**
25 A When you say how did we market the token

Page 389

1 sale, what do you mean by "market"?
2 **Q Did Kin market -- did Kin market the token**
3 **sale?**
4 A Did we -- did we explain Kin in many
5 different forums, yes. Did we explain that we were
6 doing a token sale, yes.
7 **Q Why did Kin -- Kik do that?**
8 A Because we wanted as many people to be a
9 part of it as possible.
10 **Q So you wanted to -- you and others at Kik**
11 **wanted to go to public fora and explain the Kin**
12 **project, right?**
13 A Yeah. The vision for Kin, yeah.
14 **Q And you wanted to encourage as many people**
15 **as possible to then participate in the project, right?**
16 A To be part of it from day one, yes.
17 **Q And to be part of it by day one, they would**
18 **buy Kin tokens, right?**
19 A Yeah.
20 **Q Okay. I'm not going to quibble about the**
21 **word "marketing," but spread awareness, whatever term**
22 **you want to use, Kik did that?**
23 A Yep.
24 **Q Okay. And did you participate in that**
25 **effort?**

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1 A I did.
2 **Q You went to various public fora, meetings**
3 **and the like, and talked about Kin?**
4 A Yeah.
5 **Q Did you meet with people who were**
6 **interested or thinking about buying Kin?**
7 A Like on -- yes, I did. Like, on the
8 presale side, I definitely met with people. I am just
9 thinking of, like, the different categories of people I
10 met with. I also did lots of public talks. Did some
11 of those people end up buying Kin, probably. Although,
12 I'm not sure. So I'd say yes.
13 MR. MITCHELL: Why do public talks?
14 THE WITNESS: To explain the vision of Kin.
15 BY MR. LEASURE:
16 **Q Sure.**
17 MR. MITCHELL: One more practical question.
18 In terms of actually people you met
19 individually or, you know, who is representing some
20 entity, what ones do you remember meeting?
21 THE WITNESS: I remember meeting with
22 Polychain -- I remember Polychain, Pantera. I did call
23 to some others. I can't remember their specific names.
24 Those are the ones that I recall specifically.
25 MR. MITCHELL: Where did you meet with

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1 Polychain?
2 THE WITNESS: I can't recall.
3 MR. MITCHELL: In New York City?
4 THE WITNESS: I can't recall.
5 MR. MITCHELL: Did you meet with them
6 before or after the announcement at Token Summit?
7 THE WITNESS: I cannot recall.
8 MR. MITCHELL: Did you go to San Francisco
9 to meet with anybody?
10 THE WITNESS: I can't recall specifically.
11 Actually, I know, at a minimum, I went to Fortress
12 Capital and met with them. So I recall that. Outside
13 of that, I cannot recall specifically who else I met.
14 BY MR. LEASURE:
15 **Q Was there a road show held in connection**
16 **with Kin marketing events or talking about Kin?**
17 A Did we go around the world to explain the
18 Kin vision, I think yes.
19 **Q Was that called a road show?**
20 A I think that's typically the term for going
21 on the road, yes.
22 **Q Why did you -- who did that?**
23 A Who did which?
24 **Q The road show.**
25 A Who put it together? Who was part of it?

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1 **Q Good question. First, who put together?**

2 A I can't recall. Like, it was a group
3 effort.

4 **Q Did you go?**

5 A I did go to many events, yes.

6 **Q Who else went with you?**

7 A I'm sure Rod, our head of communications at
8 the time, would have gone to many of them. And then
9 different people for other ones. Like, for example, I
10 know I went to TechCrunch Disrupt in China. I can't
11 recall when they did that. But I believe it was only
12 Rod and I at that one, for example.

13 **Q How about where else did you go on the road
14 show?**

15 A I think I did something in Europe in
16 London, I seem to recall. I think I spoke in San
17 Francisco. I can't recall where else.

18 **Q And who went with you to London and San
19 Francisco, if anyone?**

20 A I would say Rod. But I can't recall who
21 else.

22 **Q Did anyone who didn't work for Kik
23 participate in the road show?**

24 A I cannot recall. I cannot recall. I don't
25 -- nobody comes to mind. But it's possible.

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1 **Q In addition to the road show, globally,
2 sort of the -- the marketing or spread-the-word efforts
3 prior to the public sale, did anyone who didn't work
4 for Kik help out with that?**

5 A I'm not sure if CoinFund would have helped
6 with that in terms of identifying where we should
7 speak, where crypto -- people interested in
8 cryptocurrencies would be or what events they might be
9 at. But I can't recall specifically.

10 **Q How about anyone not sort of being paid by
11 Kik, was there some...**

12 A I can't recall anybody specifically.

13 **Q Okay. Let me show you a document. I'm
14 going to mark this as Exhibit 202.**

15 (SEC Exhibit No. 202 was marked for
16 identification.)

17 BY MR. LEASURE:

18 **Q Look at Exhibit 202, and let me know when
19 you're ready. I'll represent for the record it's a
20 multi-page document with the title "Kik Token Event
21 Communications Strategy." And it begins with the Bates
22 stamp KIK 107736.**

23 **What is this document?**

24 A The title says it's a communications
25 strategy. It looks like a strategy written down in the

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1 form of -- written down in the form of a deck.

2 **Q Do you recognize it?**

3 A Not specifically, no.

4 **Q I'll represent to you that this was -- we
5 can see custodians when we get document production.
6 This was in your files, but I can't tell you how it got
7 there or what is the date of the document.**

8 A Yeah. I don't think -- like, I'm sure it
9 would have been shared with me. I don't recall
10 specifically reviewing it. It might have happened,
11 though. I just can't recall.

12 **Q That's fine. I actually just want to point
13 to specific pieces and ask -- use them to ask you what
14 happened and what you remember, okay?**

15 A Sure.

16 **Q I guess first, maybe for context in the
17 document, can I point you to the second page, that's
18 107737. It has --**

19 A Do you mind if I actually just look at the
20 rest of this --

21 **Q Take your time.**

22 A Okay. Sorry. Your question?

23 **Q You had a chance to look at it.**

24 **Is there any other context you can give me
25 having reviewed the document?**

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1 A I'd only be speculating on what this could
2 be.

3 **Q That's fine.**

4 A I can do that if you want.

5 **Q No, I don't. The second page, 107737.
6 Do you see the table of contents?**

7 A I do.

8 **Q Does that give you any sense of what the
9 purpose of this document is, or where it fits in to the
10 timeline we've been discussing?**

11 A Looks like how we're going to get people
12 excited about Kin.

13 **Q So communicating about Kin to the public
14 and the plan for doing so?**

15 A Yep.

16 **Q Do you have any sense, just based on the
17 org chart of Kik at the time, who would have been
18 responsible for thinking about these efforts?**

19 A I would think it would be led by Rod. But
20 ultimately, it'd be Erin's responsibility.

21 **Q Let me point you to the -- the next page is
22 107738. It has "key audiences."**

23 A Yes.

24 **Q Can you take a look at that.
25 Were these the audiences for Kik's**

Page 396

1 communication efforts around Kin?

2 A I think this is a list. I'm not sure about
3 the categorization. But this is a list of many of
4 people who were interested in cryptocurrencies at the
5 time.

6 Q Were these people Kik targeted into the
7 subsequent efforts it made to communicate about Kin?

8 A I think what this is just trying to do is,
9 like, there's lots of different people here. And it's
10 trying to do its best to put them into a structure to
11 make it sort of easier to comprehend.

12 So I think, like, individual boxes, yes.
13 These are all groups that exist. I'm not sure I would
14 have put them in these three buckets, but somebody did.

15 Q Can I point you a little further in the
16 document to the page with the Bates stamp ending 745.
17 And it comes with the title of "Community Management."

18 A Okay.

19 Q Let me pause you on this. When it's
20 talking about community management, I see icons for
21 Reddit, Slack. Did Kik use sites like Reddit or Slack
22 to communicate about the Kin token event?

23 A Yes.

24 Q What were the major websites that you used,
25 if you remember?

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1 A I would guess Reddit and Twitter and Medium
2 would be the big ones. I can't recall exactly what we
3 did with Slack.

4 Q How about Telegram? Did they have a
5 presence on there?

6 A Yep. Telegram.

7 Q YouTube?

8 A I would think so, yes.

9 Q We saw Medium. Did you -- this talks
10 about, I guess -- people have to manage the presence
11 that Kik has on various websites like Reddit, right?

12 Let me ask that -- so for example, someone
13 at Kik has to post things or keep an eye on the
14 community postings that are happening on those various
15 websites?

16 A I wouldn't say "has to." I would say, you
17 know, there is two options. One is you could let --
18 like, people would post about Kin on Reddit, whether we
19 were there or not. The advantage to being there is if
20 people are spreading false information, then we can, to
21 the best of our ability, correct it.

22 Q Did Kik do that on various sites like
23 Reddit?

24 A I believe we did, yes.

25 Q Was there false information going on, do

Page 398

1 you remember, in advance of the public sale?

2 A There is -- in crypto, there is always tons
3 of false information on different -- in many different
4 ways.

5 Q Sure. Particularly, with respect to Kin,
6 did anything -- does anything jump out that concerned
7 you or bothered you being circulated at the time?

8 A Nothing specific comes to mind.

9 Q Who handled Kik's presence on sites like
10 Reddit?

11 A I can't recall who specifically was
12 responsible for that at the time.

13 Q Did you do anything?

14 A I can't recall anything specifically. If I
15 were to guess -- like, I obviously posted to Medium. I
16 might have commented on Reddit. Although, I think I
17 actually created my Reddit account later. You could --
18 I'm ted_on_reddit is my username. You can look at when
19 my Cake day is. Actually, I believe I created that
20 after, even much after the token sale.

21 Q I see in e-mails there is some assignments
22 being given to people within Kik about sort of
23 community channels to monitor or post on.

24 Does any of that ring a bell?

25 A Yeah. It doesn't ring a bell. But

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1 intuitively, it makes sense.

2 Q But did you have any -- did you, yourself,
3 have any assignments on particular...

4 A It's possible, but not that I can recall.

5 Q That's fine. Let me point you to 748 of
6 this document. That's page 13.

7 A Yes.

8 Q There is a reference to rolling thunder.

9 A Yep.

10 Q What is that? It's a cool name. What is
11 it?

12 A What is rolling thunder?

13 Q Yeah.

14 A I think the term "rolling thunder" is used
15 a lot in the industry. And it's this idea that you
16 want to create, like, an increasing rolling excitement
17 around something. So in this case, we wanted to create
18 a rolling increasing excitement around Kin.

19 Q Did that happen?

20 Was there an effort to do that?

21 A Yes.

22 Q Let me point you to -- maybe it's helpful
23 to have an actual context -- 107749, the next page.

24 A Okay.

25 Q Says, "Phase 2 rolling thunder."

Page 400

1 A Okay.

2 **Q Was this the plan to generate increased**
3 **attention or interest in Kin?**

4 A These look like various things we were
5 doing to create awareness around Kin.

6 **Q And you participated in some of these**
7 **efforts?**

8 A Yep.

9 **Q Okay. Maybe more specifically, let me**
10 **point you to the next page, which ends in Bates stamp**
11 **750, "Participant Road Show."**

12 A Okay.

13 **Q Is this referring to a plan for the road**
14 **show we talked about earlier?**

15 A This looks like a list of people we could
16 meet who could be interested -- who were interested in
17 cryptocurrencies and could be interested in Kin.

18 **Q Just for the record, I'm just going to read**
19 **it. "Goal, Ted to meet with top 2 to 3 crypto**
20 **participants in each market." And then it lists out, I**
21 **guess, five or six places with different people or**
22 **entities there.**

23 **Do you see that?**

24 A I do.

25 **Q Which of these happened?**

Page 401

1 A I can't recall specifically which of them
2 happened. Like, I do recall meeting with Pantera. I
3 do recall meeting with Tim Draper. I do recall meeting
4 with Polychain. I do recall meeting with Brock Pierce.

5 I don't recall any others. I met Anthony,
6 I seem to recall, at an event one time. But I don't
7 think I sat down privately with him, but it's possible.
8 I can't recall. I don't recall meeting with any of the
9 other names on this list.

10 **Q That's fine. And is this in connection**
11 **with what we've been calling the presale, trying to**
12 **identify different presale interest?**

13 A Yep. I think that's correct.

14 **Q Is it fair to say that whichever these**
15 **particular ones did or didn't happen, you went to**
16 **various places, including places in the U.S., and met**
17 **with potential presale investors?**

18 A Correct.

19 **Q Okay. Did you -- the next page, 751, has a**
20 **road show -- has more information about a road show.**

21 **Do you see that?**

22 A Yep.

23 **Q Was this an effort to also reach out to**
24 **media? Am I reading this correctly, or is this**
25 **something else?**

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1 A That's what it looks like, yes.

2 **Q Did that happen?**

3 A I'm sure -- we definitely met with media.

4 I can't remember the specifics of which media we met
5 where and how. But definitely, we met with media.

6 **Q How does that -- someone sets up with a**
7 **reporter and you provide them information about the Kin**
8 **offering; is that right?**

9 A I think -- I don't know specifically. But
10 if I were to guess, it's reaches out to reporter and
11 says, "Kin is going to launch its own cryptocurrency.
12 It's really exciting. Here is why you should hear the
13 story from Ted."

14 **Q Did you personally meet with some of the**
15 **reporters?**

16 A I can't recall any specific meetings, but
17 I'm sure I did.

18 **Q Okay. Fair enough. Again, I am using this**
19 **to sort of orient us. Were there other major events or**
20 **measures taken beyond what we've talked about in terms**
21 **of spreading the word about Kin in advance of the**
22 **public sale?**

23 A Not to my recollection.

24 **Q Okay. Fair enough. I'll take that back.**

25 **Thank you. Talking briefly about public awareness and**

Page 403

1 **talking about -- we've talked about Kin so far. I want**
2 **to go back in time and talk about Kik's messaging app**
3 **business.**

4 A Sure.

5 **Q When Kik wanted to market, promote, talk**
6 **about Kik, the messaging app, how did it do that?**

7 A When we were launching new features that we
8 wanted to explain to the world and why they're
9 exciting, we would do Medium posts, we would speak at
10 events, we would call reporters. Many similar things
11 to what we just talked about.

12 **Q Did it communicate it inside Kik, the**
13 **messaging app, to the messaging app users?**

14 A For the most part, no.

15 **Q Why not?**

16 A If you build great features, users will
17 discover them naturally over time. And so one of the
18 common critiques I've gotten over the years is we don't
19 do enough to market new features inside the app. And
20 my view is if it's a feature that users love, they'll
21 tell other users about it, they'll use it with them,
22 and they will discover it on their own.

23 **Q And then moving to the Kin sale. Was that**
24 **promoted at all in the Kik messaging app, do you know?**

25 A Not to my recollection.

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Q Why not?

A We have a history of typically not promoting new features inside the app. Again, letting them spread organically through the messenger. But I think on top of that, in any case, but especially in this case, this is a brand new technology. You know, it was a very early technology, very fragile technology. And so probably -- whenever we're rolling out a new feature, we rolled out a few users at a time. That's a common practice in the industry.

You know, when you don't know if something is going to work, you don't roll it out to everybody at the same so everybody has a bad experience right away. You roll it out slowly. So I think, especially in this case, like with blockchain technology being so young, we would want to roll it out in a very slow and controlled way.

Q Was there a concern within Kik or Kik's executive team about scaring off Kik messaging app users by rolling out Kin too quickly inside the messaging app?

A Scaring off -- you know, Kik users had used Kik Points and had loved them. So from a product point of view, from an idea point of view, I don't think it would be scary for users. I think probably what was

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scary is Kik Points was running on a tried and true and highly scaled technology, which is a centralized database. So we had much more conviction that it would work well.

Whereas, blockchain was sort of the exact opposite. It was something that was brand new, did not work well, and almost nobody in the world had used yet. So I think when you say "scare off," I think there were high odds that the experience, the technology would break, and therefore, give Kik users a bad experience.

Q Got it. So the worry was that if you put it into the Kik messaging app immediately, as of the public sale, it simply might not -- there might be glitches or tech issues or it just might not work correctly?

A I think the concern was if I -- because I'm not sure quite -- that's not quite what I was saying. The concern was is if we put Kin into Kik and then tried to get everybody to use it right at the beginning, that that would increase the odds that the technology would break, and therefore, be a bad idea.

Q Because just too many people would be trying to use it at once?

A Too many people would be trying to use it

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at once.

Q And Kin wasn't ready for that?

A No blockchain in the world is ready for that.

Q So it had to be a more gradual buildup?

A Yes.

Q I want to talk a bit -- so we've talked about how Kik was trying to spread the word about the upcoming public sale of Kin, right?

A Trying to create awareness around what we were doing with Kin, why it was an exciting new vision, and why people should purchase tokens.

Q If you had to summarize Kik's pitch on those points, what would be your high level summary?

A Of which?

Q Of all of them. You're trying to spread awareness that you're about to be selling this token. It's a major event for the company. And you want people to be enthusiastic about it, right?

A I think the bullets of my message were -- and I recall this actually because I think we did it many times -- is, you know, on one side, digital apps are becoming more and more important in our lives. We're using them to communicate with our friends, share pictures, order food. Pretty much, we run our lives

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through our phones.

And yet, increasingly, those apps are being owned and run by a smaller and smaller number of companies. And we're now on the path to where there will only be a few companies left. And every app we do and everything we do in our lives will be controlled by those few companies. And that ultimately -- that will lead to less innovation, that will lead to less choice, and ultimately, less freedom. We think the world needs a better way.

And we think a cryptocurrency is the only way to create that better way. So we are creating a new cryptocurrency to create a fundamentally new business model for developers and their consumers to band together, make money in a new way that's better for their consumers, and work together as one to take on these monopolies together, to avert a future disaster in global society where few companies run the world.

Q Let me just give you a reaction and follow it with a question to that. That -- I can see why that would be appealing vision and that I would want to -- you know, I would cheer for you. But was there a pitch why I should spend money and then buy the tokens?

A So how are we going to solve this problem,

Page 408

1 I guess, is your question?

2 **Q Sure. I can -- I could just give you money**
3 **as a charity and help you, wish you the best in**
4 **Facebook. But why should I give you my money and**
5 **participate?**

6 A Because if you just give us money, that's
7 not going to change anything. Like, lots of people had
8 given us lots of money, and yet, we were still here,
9 and monopolies were increasingly owning the future. If
10 it was just about money, like, we would have been fine.
11 We wouldn't have needed to move into a crypto business
12 model. The problem was much bigger than just money.

13 **Q I guess I'm saying it sounds like, from**
14 **what you're saying, the pitch was you should want --**
15 **"You, the potential buyer of Kin, should want to avoid**
16 **a future dominated by a monopoly like Facebook" --**

17 A Uh-huh.

18 **Q -- "so give us money to avoid that"?**

19 A No.

20 **Q Okay.**

21 A So how are we going to solve that?
22 Cryptocurrency offers the one potential solution that
23 we've seen in our, you know, eight or nine-year
24 history, whatever it was at the time --

25 **Q Right.**

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1 A -- to change the course of this, what felt
2 like an inevitable -- what feels like an inevitable
3 future. How are we going to do that? Like, you have
4 to understand the fundamentals of cryptocurrencies and
5 crypto economics. So we did our best to explain that.
6 Like, why are cryptocurrencies -- why was Bitcoin a
7 fundamental innovation? Because you can guarantee the
8 scarcity of a digital asset. What does that mean?

9 Once the asset is created, there will never
10 be more. So if demand of that asset goes, supply is
11 fixed, and the price will go up. Why is that
12 important? That creates a fundamentally new business
13 model for consumer app developers, like Kik, but like
14 every other consumer developer out there. It also puts
15 developers and consumers on the same team.

16 Consumers can only spend what they earn,
17 and so every developer's job is no longer to extract
18 value, but is actually to find ways to get their users
19 compensated for the value they provide. How all this
20 works -- and maybe one other thing. The exciting part
21 about this is, you know, if this were just being Kik,
22 it would never work because, you know, at any point,
23 Kik could stop accepting Kik Points or Kin or any other
24 cryptocurrency.

25 This is why a Starbucks coin would never

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1 work. And so this needs to be an ecosystem. An
2 ecosystem of developers, of creators, of consumers, all
3 coming together, owning this currency, contributing in
4 their own ways to grow demand for the cryptocurrency,
5 and therefore, make the cryptocurrency they own more
6 valuable, but in doing so, making everybody else's
7 cryptocurrency more valuable at the same time.

8 **Q Right. And we spent a lot of time talking**
9 **yesterday about -- I think it was termed a value**
10 **proposition in a document, but I think what you termed**
11 **yesterday, the fundamental economics of**
12 **cryptocurrencies, right?**

13 A Yep.

14 **Q That as demand increases, value -- you**
15 **know, value will rise, and everyone shares in that --**
16 **in that gain, right?**

17 A Correct.

18 **Q Okay. That idea, that value proposition,**
19 **that fundamental of crypto economics, did you present**
20 **that as part -- to people as part of raising awareness**
21 **about the Kin token sale?**

22 A I can't recall specifically, but people
23 cannot understand Kin without understanding these
24 fundamentals of crypto economics.

25 **Q So you expected people that bought Kin**

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1 **likely did understand that?**

2 A We understand it a lot better now than we
3 did back then, even, like, me. So it's hard to say
4 what exactly I or anybody else understood exactly back
5 then. But that's, you know, sort of the foundation --
6 foundational idea of Bitcoin. You can guarantee the
7 scarcity of a digital asset. And that's what opens up
8 everything that makes, from my point of view,
9 cryptocurrencies powerful.

10 **Q Got it. And you don't know sitting here**
11 **today if you did or did not communicate that?**

12 A I don't recall.

13 MR. MITCHELL: So we'll mark a DVD that has
14 on its face the SEC seal and 4 -- it says "4-I have two
15 questions." And on that -- well, and on that, it has a
16 file. I'll turn on the TV. That file is a video file.

17 (SEC Exhibit No. 203 was marked for
18 identification.)

19 MR. GIBBS: In the interest of time, while
20 you're working on that, why don't I just note for the
21 record our objection to the marking of the video file
22 on the ground that, as I understand it, the file that
23 is being marked is a clip of a longer video. And so we
24 would object that the exhibit that's being marked is
25 incomplete because it is a portion of a longer video.

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1 MR. MITCHELL: So, Mr. Livingston, you can
2 see the screen?
3 THE WITNESS: I can.
4 MR. MITCHELL: All right. Do you recognize
5 what this is?
6 THE WITNESS: I do not.
7 MR. MITCHELL: Okay. Do you know who that
8 guy -- are you on the screen?
9 THE WITNESS: I am on the screen.
10 MR. MITCHELL: Do you know who the other
11 person is?
12 THE WITNESS: I cannot recall who that is.
13 MR. MITCHELL: Okay.
14 (VIDEO PLAYING.)
15 UNIDENTIFIED SPEAKER: I have two questions
16 for you, actually. First of all, you said that
17 cryptocurrencies were the first digital -- scarce
18 digital asset, but Amazon Credits existed before
19 cryptocurrencies. And isn't there a finite amount of
20 Amazon Credits? And for that matter, all bank
21 balances, as well as, for that matter, a work out
22 quote?
23 MR. LIVINGSTON: So what I said is a
24 cryptocurrency for the first time ever can guarantee
25 the scarcity of a digital asset. You know, we ran Kik

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1 Points. Are there only so many Kik Points? No. We
2 can create more whenever we want. And you're just
3 going to have to trust us that we don't create too
4 many. And so I think, you know, you'll get Amazon
5 Credits. They create -- they create more all the time.
6 Do you think they have, like -- like, running low on
7 the Amazon Credits. What do we do?
8 UNIDENTIFIED SPEAKER: Will we have an
9 internal ledger for Kin to decide how much Kin is
10 created?
11 MR. LIVINGSTON: So that's the beautiful
12 thing about the blockchains. We know with Bitcoin, for
13 example, there's only going to ever be 22 million, or
14 whatever it is.
15 UNIDENTIFIED SPEAKER: 21 million.
16 MR. LIVINGSTON: 21 million. Thank you. I
17 appreciate that. Sorry. And this -- so that's the
18 beautiful thing, is like as a developer, as anybody in
19 the ecosystem, even look at Bitcoin, and say so there's
20 only going to ever being 21 million Bitcoins. So the
21 supply is fixed. So if the demand for Bitcoin goes up,
22 economics 101, supply stays the same, demand goes up,
23 price is going to go up. And therefore, if I buy it
24 today if I think the demand is low because I think
25 tomorrow the demand will be higher, I will be able to

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1 sell at a higher price. And that's the thing that was
2 just never possible. Amazon Credits, is the demand
3 guaranteed to be the same? No. They can make more
4 whenever they want.
5 UNIDENTIFIED SPEAKER: But nobody expects
6 the value of Amazon Credits to go up. Everybody
7 expects the value of Amazon Credits to always be paying
8 one to one with the dollar.
9 MR. LIVINGSTON: Right. I think it's,
10 like, different. Like, I think the Amazon Credits is
11 like a different way to use U.S. dollars; where this
12 is, like, a fundamentally different financial (audio
13 interference.)
14 UNIDENTIFIED SPEAKER: My second question
15 for you is: What will Kik do in order to guarantee the
16 value of Kin going forward?
17 MR. LIVINGSTON: So we cannot guarantee the
18 value of Kin. You know, I think, once you create a
19 cryptocurrency, it's on exchanges, and the price of it
20 is set by the market based on supply and demand. And
21 so, you know, even though supply is fixed, if demand
22 goes down, the price is going to go down. But I think
23 what we can guarantee is we are all in this, you know.
24 This is something we've been working towards for a long
25 time. But this is something that you see in our

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1 financial best interest, because of 30 percent. But,
2 actually, like, just to be honest, like, this is
3 something we have to do. We cannot compete with
4 Facebook. We can't -- everything we do, they copy it
5 two years later. They have way more developers, way
6 more scale. And that was the process, really, the
7 turning point, is when we saw Snapchat's S-1. And
8 looked at them, we're like, "Wait, even Snapchat is
9 struggling?" Like, this company has raised
10 \$2.5 billion. They have 2,000 employees. They have an
11 amazing insight, amazing brand. Kik got everything
12 perfectly, and even they are struggling to compete with
13 Facebook.
14 UNIDENTIFIED SPEAKER: So there is nothing
15 backing the Kin token?
16 MR. LIVINGSTON: The only thing backing any
17 cryptocurrency is demand. Like, you know, why is
18 Bitcoin worth what it's worth? Why is Ether worth what
19 it's worth? It's because there is a fixed supply and
20 there is so much demand. If demand goes down, then the
21 price will go down. If demand goes up, the price will
22 go up.
23 (END VIDEO.)
24 BY MR. LEASURE:
25 **Q Was that you?**

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1 A Yes.

2 Q Do you know where that was?

3 A I think it was in San Francisco, but I
4 don't recall exactly.

5 Q I can represent to you that from the -- I
6 think we pulled that off of YouTube. I think the data
7 around it looks like you were at a San Francisco
8 Bitcoin Meetup. Does that sound right?

9 A It sounds familiar.

10 Q Okay. And was that in connection with
11 raising awareness about the upcoming Kin token sale?

12 A I think that was about raising awareness
13 about Kin.

14 Q Kin. Sure. Okay. But my point is that
15 was -- do you have any reason to doubt that that was
16 before the actual sale itself?

17 A No. I don't have any reason to doubt that,
18 no.

19 Q Okay. You don't know either way?

20 A I don't recall specifically.

21 Q And first, I want to apologize, one of my
22 nightmares is watching myself talk on video, so I
23 apologize to you. It's painful for me to watch myself.

24 Is what you said accurate?

25 A I believe so, yes.

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1 Q Okay. Would you agree -- we've been
2 talking an awful lot yesterday and today about what you
3 see as the fundamental economics of crypto.

4 A Yep.

5 Q Would you say you were describing your view
6 on that to the audience there?

7 A Yes.

8 Q And you think you described it accurately?

9 A Yes.

10 Q Okay. So, for example, if demand rises --
11 if demand rises in the future, the value of a coin will
12 go up?

13 A Correct.

14 Q And that there was nothing actually -- that
15 the future value of Kin wasn't backed by any --
16 anything other than the laws of supply and demand?

17 A Correct.

18 Q Okay. You compared -- in that analysis,
19 you compared Kin to Bitcoin, right?

20 A Uh-huh.

21 Q Why did you compare Kin to Bitcoin?

22 A Bitcoin was the first cryptocurrency that
23 was able to guarantee the scarcity of a digital asset.
24 So if you understand Bitcoin, then you can understand
25 Kin. But if you do not understand Bitcoin, then you

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1 cannot understand Kin.

2 Q And I take it in talking at, I think it was
3 called the Bitcoin Meetup, is also a helpful frame of
4 reference for people who don't know about Kin yet,
5 right?

6 A Correct.

7 Q Because they do know about Bitcoin, right?

8 A Correct.

9 Q Bitcoin is the most well-known
10 cryptocurrency, right?

11 A Correct. It's the first and most
12 well-known, yes.

13 Q Okay.

14 You also said -- correct me if I'm
15 wrong.

16 You were asked why you -- what is Kik going to
17 do to guarantee the value of this cryptocurrency,
18 correct?

19 A Correct.

20 Q And you answered you can't guarantee the
21 value of a cryptocurrency, correct?

22 A Correct.

23 Q And that's accurate, right?

24 A That's accurate.

25 Q You stated -- and correct me if I'm

Page 419

1 wrong -- "But we guarantee we are all in on this"?

2 A Yep.

3 Q Was that accurate?

4 A Yes.

5 Q And what does that mean?

6 A That means that we were going to do
7 everything we could to integrate Kin into Kik and have
8 it be the currency of exchange inside Kik.

9 Q Support the project?

10 A Be an active participant in the ecosystem.
11 We could have said the exact same thing about Bitcoin
12 or Ethereum or any other cryptocurrency. But we were
13 saying because it was in our financial interest,
14 because we own 30 percent of all Kin, that we were
15 going to go all in on Kin.

16 Q Right.

17 A If we own 30 percent of Bitcoin, maybe we'd
18 go all in on Bitcoin, but we didn't.

19 Q As an outsider, I wasn't there --

20 A Yep.

21 Q -- watching that video, it seems like at
22 least the questioner was concerned about how is Kik
23 going to support or relate to the Kin project.

24 Does that seem right to you?

25 A I think -- actually, I remember this

Page 420

1 exchange.

2 **Q Okay.**

3 A I think my recollection -- I didn't know

4 for sure, but my recollection is this is sort of like a

5 Bitcoin maximalist, you know, somebody -- the term is

6 somebody who believes in Bitcoin and nothing but

7 Bitcoin, and Bitcoin is sort of like a religion. And

8 so was questioning the idea that a company like Kik

9 would launch its own cryptocurrency because that was

10 unheard of at the time, and was sort of having a

11 negative reaction to that.

12 **Q Oh, the idea of being why would a**

13 **centralized -- if I could use the lingo right.**

14 A Yeah.

15 **Q Why would have centralized company with its**

16 **own CEO and management structure be entering the crypto**

17 **space?**

18 A Every cryptocurrency to date had been

19 launched by small groups of people who were working

20 together but were new and unestablished, and yet, here

21 was an established company creating a cryptocurrency.

22 **Q And so that distinguished Kin from**

23 **everything that had been out there at the time?**

24 A We were certainly the first.

25 **Q Do you think that helped distinguish Kin?**

Page 421

1 A Yes.

2 **Q From its, I guess I can say, competitors or**

3 **other coins that people were looking at the time, the**

4 **fact that Kik was there, Kik was established with a**

5 **track record, that helped distinguish it?**

6 A I would say we have a long history of Kik

7 being first. So maybe -- like, we're the first chat

8 app to go viral, the first chat app to launch

9 platforms, the first chat app in the western world to

10 launch bots, and the first VC-backed company, to my

11 knowledge, in the world to launch cryptocurrency. So I

12 guess that's what distinguishes us broadly.

13 **Q And do you think people -- do you suspect**

14 **that people who bought Kin may have liked that feature**

15 **of Kin, that Kik was there?**

16 A I think it was definitely a positive for

17 sure.

18 **Q When you -- in advance of the Kin sale,**

19 **when you were talking to people about how -- what role**

20 **Kik would play in the project, what did you say?**

21 A My understanding -- I can't recall exactly.

22 I'm sure we have lots of documents that share it. But

23 my best recollection is we were going to create it. We

24 were going to integrate it into Kik. We were -- and we

25 were going to set up the Foundation. Those were three

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1 things that come to mind.

2 I think we probably said something about

3 the Kin Reward Engine, that we either set that up or

4 set that up with the Foundation. I can't recall the

5 specifics.

6 **Q You don't recall if the Reward Engine was**

7 **the Foundation, you guys --**

8 A I seem to recall us talking about the

9 Foundation would start off -- like, we would control it

10 and run it, and then we would decentralize it and make

11 it independent over time.

12 But, you know, in day one, it's a brand new

13 thing, so somebody's got to set it up. So at that

14 moment in time, obviously, we would set it up.

15 **Q And in terms of -- I don't want to call it**

16 **culture, but the crypto space at that time, was it**

17 **generally important, the concept that ultimate**

18 **governance be run by a decentralized organization at**

19 **some point in the future?**

20 A Say that one more time.

21 **Q Yeah. I'm trying understand crypto culture**

22 **at the time.**

23 A Yeah.

24 **Q Was the goal -- was it expected that a**

25 **cryptocurrency would ultimately be run by some sort of**

Page 423

1 **disinterested foundation or decentralized organization**

2 **in the future?**

3 A I think there's lots of different views on

4 governance in the crypto industry at large.

5 **Q Yeah.**

6 A We were -- you know, we were a developer,

7 and so in many ways, we were the target audience for

8 Kin, and so we understood ourselves. It would give us

9 a huge sort of insight into what other developers would

10 probably want as well. If I were another developer and

11 I were building for Kin, I wouldn't want Kik

12 controlling it.

13 We've seen enough of that, like Facebook

14 controlling their platform, Twitter controlling their

15 platform, and then the rug being pulled out from under

16 developers. So I felt it was important on behalf of

17 other developers that this be not decentralized but

18 independent over time and decentralized to the maximum

19 degree possible. But it's unclear even today how

20 exactly decentralized governance can and will work in

21 the future.

22 **Q Got it. And I apologize for saying**

23 **decentralized. The independence, though, that was**

24 **something you thought was important to get people**

25 **interested in the Kin project?**

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1 A If I were a developer, I would want to know
2 that there was a desire for this Kin Foundation, which
3 controlled 60 percent of all Kin, to be independent
4 over time.

5 **Q Otherwise, Kik would favor itself?**

6 A Could favor itself. I don't think we ever
7 would, but --

8 **Q No. Sure. But they don't know you, right?**

9 A Yeah.

10 **Q So there's -- to encourage them to**
11 **participate, you don't want them to trust you; you want**
12 **them to have a sense that there might be an independent**
13 **body in the future?**

14 A That thought was the goal, yes.

15 **Q Got it.**

16 MR. MITCHELL: What do you mean
17 independent? What makes a body independent?

18 THE WITNESS: Independent meaning if --
19 it's not just enough for Ted, for example, to think
20 something is a good idea. It has to be a majority of
21 independent people who agree with him. And if they
22 disagree with him, that it wouldn't go through. That
23 would be independent to me.

24 MR. MITCHELL: Is the Kik Foundation
25 independent of -- sorry. Is the Kin ecosystem

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1 foundation independent of Kik today?

2 THE WITNESS: I think we talked about this
3 a little yesterday, but maybe not. Like, to me,
4 independence is a spectrum, not a black or white. You
5 know, today, the directors of the Kin Foundation, and
6 the Kin Foundation controls that 6 trillion Kin, is
7 myself and William. So if I think it's a bad -- I
8 think something is a good idea and he thinks something
9 is a bad idea, and he disagrees with me, it goes to a
10 vote, then it won't happen.

11 So I would say yes, the Kin Foundation is
12 independent today. But, you know, maybe I can
13 influence William. So it would be good to have more
14 and more independent people on the board contributing
15 to those decisions over time.

16 MR. MITCHELL: Can Mr. Mougayar cause the
17 Kin Foundation to do things over your objection?

18 THE WITNESS: No.

19 MR. MITCHELL: So you and Mr. Mougayar have
20 to both agree for the Kin Foundation to do anything?

21 THE WITNESS: Correct.

22 BY MR. LEASURE:

23 **Q But just to summarize that, you have a**
24 **preference for a more independent Kin ecosystem**
25 **foundation than exists at present?**

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1 A I do.

2 **Q In promoting or discussing Kin prior to the**
3 **public sale, did you ever compare the crypto space in**
4 **2017 to the dot-com area?**

5 A I did.

6 **Q Why did you do that?**

7 A I think I wanted to -- I don't recall
8 specifically, let me say that. But if I were to
9 speculate, I wanted to make it clear that what I was
10 trying to do, I believe, is -- dot-com, there was a lot
11 of -- a lot of excitement at the time. Ultimately, a
12 lot of the things that people were excited about turned
13 out to be failures.

14 And yet, a few of the things that people
15 were excited about or even not excited about at the
16 time turned out to be massive. And I think I was just
17 simply drawing the comparison that I felt the same way
18 and do feel the same way about cryptocurrencies today,
19 that most of them will be failures, but some of them
20 will change the world.

21 **Q And you think Kin could be one that becomes**
22 **massive and changes the world?**

23 A I absolutely believe that, yes.

24 **Q Okay. And was that part of how you**
25 **described or encouraged people to participate in the**

Page 427

1 **Kin sale?**

2 A I think that's how I described my belief in
3 the vision.

4 **Q In advance of the Kin sale?**

5 A Yes. Absolutely.

6 **Q Can we roll the next?**

7 **(SEC Exhibit No. 204 was marked for**
8 **identification.)**

9 MR. MITCHELL: Okay. So I'm going to mark
10 the DVD as Exhibit 204. It's a DVD with the SEC seal
11 on it and words "6-I think this is like the dot-com."

12 MR. GIBBS: Just for the record, we have
13 the same objections to the extent it's a clip as
14 opposed to the entire discussion.

15 MR. LYNCH: And did you say you were going
16 to give us a copy for us to take with us?

17 MR. MITCHELL: I have them right here.

18 MR. LEASURE: Yes. So maybe two things for
19 the record while we're dealing with our AV situation.

20 MR. LYNCH: Yeah.

21 MR. LEASURE: These -- we pulled -- we'll
22 represent to you we pulled these off of YouTube and
23 burned them to a DVD. I think they're publicly
24 available. But we will give you copies of the clips
25 we're showing -- a copy of the DVD containing the clips

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1 we are showing.
 2 MR. GIBBS: Okay. That's fine. Just to be
 3 clear, my objection is to the incompleteness of the
 4 portion that is being made part of this record here
 5 today.
 6 MR. LEASURE: Understood.
 7 MR. GIBBS: Okay.
 8 MR. MITCHELL: I apologize. I literally
 9 closed it. For the record, this laptop is just afraid
 10 of Mr. Murtha and opened up when he touched it.
 11 MR. SCHLEGELMILCH: Just to clarify, you
 12 also objected to playing the whole video because it's
 13 too time consuming, right, before we started?
 14 MR. GIBBS: Yeah. That's why I said --
 15 what I'm talking about is what's included as an exhibit
 16 to the record.
 17 MR. SCHLEGELMILCH: I just want to say your
 18 objection is used to be a damned if we do and damned if
 19 we don't objection, just for the record.
 20 MR. GIBBS: But it's not. Because my point
 21 is the entire thing should be attached in the exhibit.
 22 Okay? I'm not -- I never suggested you should sit here
 23 and play the entire video. So --
 24 MR. SCHLEGELMILCH: Okay. I now
 25 understand.

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1 MR. GIBBS: Okay.
 2 MR. MITCHELL: I put an image up on the
 3 screen. Is that you on the left?
 4 THE WITNESS: That is me.
 5 MR. MITCHELL: And do you know who the
 6 gentleman on the right is?
 7 THE WITNESS: I can't recall.
 8 MR. MITCHELL: Okay.
 9 (VIDEO PLAYING.)
 10 MR. LIVINGSTON: So I think -- for me, I
 11 think this is, like, for better and for worse, you
 12 know. There is a lot of hype right now. And people
 13 are going to make a lot of money. People have made a
 14 lot of money. People are going to lose a lot of money
 15 here. This is coming, right? It's been happening
 16 multiple times as we've moved through this innovation.
 17 At the end of the day, Amazon and Google tailor the
 18 dot-com. And so this is how I view, like, tokens at
 19 ICOs. I think 90 percent of them probably are going to
 20 go to zero. People are going to lose a lot of money.
 21 And regulators are going to come in and they're going
 22 to say how do we make this modernization but still we
 23 can save for the consumers. And everybody is going to
 24 try to figure this out and it's going to be crazy. I
 25 was in like, high school, I think, like, 2001 -- 2000,

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1 2001, whatever year it was. It's going to be that all
 2 over again. And I think for us it's -- we believe
 3 that, you know, a few huge economic entities are going
 4 to come out of this space. And I think, actually, a
 5 few huge economic entities have already come out of
 6 this space. And so I think, you know, it's like
 7 everything. It's risk and reward. I think, you know,
 8 we have a good story. I think we're trying to do it in
 9 a fair way. And I think our heart is in the right
 10 place. And we're going to do everything we can. What
 11 really scares me at the end of the day is disappointing
 12 people. And I think what scares me by doing a crowd
 13 sale is before, if Kik failed, I would disappoint a
 14 bunch of rich people. Now, if Kik failed, I would
 15 disappoint a bunch of regular people. And that really
 16 weighs on us. It really weighs on me. So we are going
 17 to do everything we can to make it a win for everybody.
 18 (END VIDEO.)
 19 BY MR. LEASURE:
 20 **Q Okay. Having watched that, that was you**
 21 **speaking?**
 22 A Yep.
 23 **Q Okay. And that was -- do you know where**
 24 **that was?**
 25 A I believe that's the same San Francisco

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1 event.
 2 **Q Okay. And that was prior to the public --**
 3 **the sale of tokens to the public?**
 4 A Correct.
 5 **Q Okay. And that was part of the effort to**
 6 **raise interest in the token sale?**
 7 A To raise awareness about the -- about Kin,
 8 yes.
 9 **Q Yeah. Okay. You compared the current**
 10 **crypto space, in 2017 at least, to the dot-com era; is**
 11 **that right?**
 12 A Correct.
 13 **Q And is what you said an accurate statement**
 14 **of your views at the time?**
 15 A Yes, it is.
 16 **Q That the space -- you know, there might be**
 17 **a significant amount of losers in the space, but that**
 18 **one or two giant entities might come out of that space?**
 19 A I used the word "entities" there. I'm not
 20 sure entities -- currencies is what I meant.
 21 **Q Okay.**
 22 A But yes.
 23 **Q And that -- I've been using the word**
 24 **"project" for Kin, just to avoid nomenclature. Were --**
 25 **were you attempting to convey that the Kin project**

1 could eventually become what you described as a huge
2 economic entity?

3 A I think, I did think, do think, and was
4 trying to convey that I think Kin can become one of the
5 most used cryptocurrencies in the world, and that the
6 most used cryptocurrency in the world is going to have
7 a lot of demand, and therefore, it's going to have a
8 lot of value.

9 Q Okay. You also said -- I get that this is
10 on a stage, talking to people. So I don't want to --
11 so I don't want to force you to over-interpret words
12 you said. But you said that you think, like
13 everything, it's risk and reward.

14 Do you recall that?

15 A I do.

16 Q What did -- what did you mean by that?

17 A I think what I meant by that is, you know,
18 at the end of the day, I think there's only going to be
19 a few heavily used cryptocurrencies in the world. And
20 so I think that's where I was trying to tie it back to
21 dot-com. Like, there are millions of websites. But at
22 the end of the day, today, we only really use ten of
23 them.

24 So when you, as a developer or a consumer
25 or somebody that just buys cryptocurrencies, any of

1 those people, and you're thinking about where to invest
2 your time, your effort, your attention, your money, if
3 you were to build an app for Ethereum, like lots of
4 people are doing right now, I think Ethereum -- my
5 personal view is Ethereum will not be one of the most
6 used cryptocurrencies in the world.

7 And so all those people who are investing
8 their time building Ethereum apps, they will have
9 risked their time and, in many cases, their money with
10 the team members, employees, and they will not have
11 gotten a return because they will not have an app that
12 gets used. And Ethereum will not be a high-demand
13 currency.

14 Q Got it. So your view was in the crypto
15 space in 2017, and maybe in 2018, it's a -- you thought
16 that most of the projects would likely fail?

17 A Yes.

18 Q But a handful would have enormous success?

19 A Yes.

20 Q And that if you were -- if you were someone
21 looking at a menu of where to invest your time, money,
22 efforts --

23 A Yeah.

24 Q -- you should look at the risk/reward in
25 that light; is that accurate?

1 A You should look at -- as anybody -- any
2 participant in any crypto project and ecosystem, you
3 should evaluate which ones are going to be most used in
4 the world and why. And you should focus your efforts
5 on contributing to the ones that have the best odds of
6 succeeding.

7 Q And you were trying -- as part of these
8 efforts, you were trying to convey that Kin, as
9 compared to others, had better odds of succeeding?

10 A That Kin from my point of view and my
11 experience and all the data we had seen absolutely had
12 a better view -- better chance of succeeding than other
13 cryptocurrencies.

14 Q Towards the end of that clip, you talk
15 about not success but failure. You talk about how
16 before, if Kik failed, you would disappoint, I don't
17 have your exact words, but a bunch of rich people.

18 A Uh-huh.

19 Q Do you remember that?

20 A Uh-huh.

21 Q I take it you're referring to private --
22 you know, private investors in Kik, the company, right?

23 A Yep.

24 Q But you also said, correct me if I'm wrong,
25 that now, if Kik fails, you will disappoint a bunch of

1 regular people, and that that weighs on you.

2 Do you remember that?

3 A I do.

4 Q What did you mean by that?

5 A I said Kik. I think I meant Kin. And I
6 think what I meant by that is, you know, we're sparking
7 a new ecosystem here, a new currency with a new vision
8 and a new sort of go-to-market strategy. And for it to
9 work, thousands of -- thousands, hundred thousands,
10 millions, hundreds of millions of people, billions of
11 people ultimately would have to contribute their time,
12 effort, and money in many different ways if Kin was
13 going to be successful.

14 And so if Kin ultimately was not
15 successful -- like, if Kik wasn't successful, I would
16 only really be disappointing our venture capitalists,
17 investors. But if Kin was not successful -- you know,
18 I would have explained to the world why I saw this
19 better way to compete with monopolies and how it could
20 work. And if that didn't end up being true, that
21 really scared me, that I would disappoint a lot of
22 people. And I was trying to convey that.

23 Q And why would you disappoint them?

24 If it's on millions or billions of people
25 to make it a success, why does it matter -- why would

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1 you be the one disappointing them?

2 A Because it was my idea.

3 Q So we were talking about efforts to raise
4 awareness about Kin prior to the public sale. We've
5 seen a few video clips. In those efforts, did you or
6 others at Kik talk about whether Kin would trade on
7 exchanges?

8 A I don't recall any specific, but I'm sure I
9 would -- Kin as a cryptocurrency cannot work and as a
10 business model cannot work, unless it's traded on
11 exchanges.

12 Q And we talked about the reasons for that
13 yesterday?

14 A Correct.

15 Q Did people ask you?

16 A I don't recall specifically.

17 Q How about after the sale? Have people been
18 asking Kik about whether Kin will trade on exchanges?

19 A Plenty.

20 Q Yeah. Let me represent to you just -- when
21 I get on the gloves and go onto Reddit, it seems like a
22 common topic on various social media channels when
23 people talk about Kin. Is that a fair statement?

24 A It is one of the more common topics. I
25 would say that's fair.

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1 that. But certainly, that's the logic of the whole
2 thing. That's the only thing that makes it a viable
3 business model.

4 Q So you would expect if someone asked you
5 what's Kik's business model, that's what you would have
6 said?

7 A I'm not sure. Again, these things are very
8 clear to me today. I think they were clear back then.
9 But it was a long time ago, so I don't recall exactly.

10 Q That's fine. Did people ask about that?

11 A I don't recall exactly.

12 Q Fine. We see you on YouTube --

13 A Uh-huh.

14 Q -- and at various conferences.

15 How about -- we talked about more old
16 school media like newspapers?

17 A Yeah.

18 Q Does any of that ring a bell, the
19 interviewing -- interviews with newspaper reporters?

20 A I don't have any specific recollection, but
21 it wouldn't surprise me.

22 Q The Wall Street Journal, do you remember
23 any coverage there?

24 A I don't have a specific recollection, but
25 it wouldn't surprise me.

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1 Q And why do you think that is?

2 A I think there's some subset that want to be
3 able to actively trade in cryptocurrencies and want to
4 be actively able to trade in Kin. And that's difficult
5 to do with -- or more difficult to do when Kin is not
6 on bigger exchanges.

7 Q Okay. And you think those are the people
8 I'm seeing or that one can see on social media asking
9 about Kin's tradability on exchanges?

10 A Yes.

11 Q Okay. Fair enough. Another topic in terms
12 of what I'm calling the marketing efforts or the -- you
13 know, the awareness-raising efforts in advance of the
14 public sale. Did you or others at Kik describe Kik's
15 own business model here? In other words, how Kik
16 stands to gain from the Kin project?

17 A I think so. I think in the video you just
18 showed, I talked about how it would be in our own
19 financial interest because we own 30 percent of all
20 Kin.

21 Q And did you explain to people that, "Look,
22 in the future, value rises. This might be something
23 that, you know, we sell pieces of our Kin to make a
24 gain"?

25 A I'm not sure if, where, how I would explain

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1 Q Fair enough. Let me show you a document
2 I'm marking as Exhibit 205.

3 (SEC Exhibit No. 205 was marked for
4 identification.)

5 BY MR. LEASURE:

6 Q Take a look at and let me know when you're
7 ready. I'm going to have to make a few representations
8 to you about what this is because it doesn't have a
9 Bates stamp.

10 A Okay.

11 Q First, I'll represent to you I printed this
12 off of a website called Factiva --

13 A Uh-huh.

14 Q -- that carries news articles. I printed
15 it off on October 16th, 2018. It says page 3 of 3.
16 Page 3 of 3. It says this is three pages. The third
17 page is actually blank --

18 A Okay.

19 Q -- so I took it off. With those
20 representations in mind, does this appear to be a copy
21 of a Wall Street Journal article about Kin?

22 A It does.

23 Q Okay. Do you remember this article from
24 the time?

25 A It's refreshing my memory. I don't

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1 remember anything that's in it. But I recall now that
 2 there was a Wall Street Journal article.
 3 **Q Okay. And this is dated August 29th, 2017.**
 4 **Is that the ballpark of when you remember that article?**
 5 A I don't recall, but I assume that's when it
 6 was if you printed it then.
 7 **Q Fair enough.**
 8 MR. MITCHELL: Do you remember a Wall
 9 Street Journal article before the token distribution
 10 event ended?
 11 THE WITNESS: Not specifically.
 12 BY MR. LEASURE:
 13 **Q The journal says Paul Vigna, V-i-g-n-a.**
 14 A Yep.
 15 **Q Do you remember that person?**
 16 A Yep.
 17 **Q Who's that?**
 18 A He's a reporter, I believe, at the Wall
 19 Street Journal.
 20 **Q Did you either meet with him or talk with**
 21 **him about the Kin offering?**
 22 A I don't have a specific recollection, but I
 23 know I've met with him over the years. And so from
 24 this, it looks like I must have met with him about Kin
 25 at this time as well.

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1 **Q And was that Rod and his group who was**
 2 **trying to arrange for meetings with the reporters at**
 3 **this time?**
 4 A Yep.
 5 **Q Okay. And I take it this isn't the only**
 6 **one, that you might have met with other reporters?**
 7 A Yeah.
 8 **Q Okay. All right. And did you get, like,**
 9 **talking points or briefing books in advance of that?**
 10 **How did that process work for you?**
 11 A Yeah. I would get briefing books, talking
 12 points. But for the most part, I typically look at
 13 those, but I write my own talking points after.
 14 **Q You throw what you were given behind your**
 15 **shoulder and handle it yourself?**
 16 A It's helpful for me to formulate my own
 17 thoughts, like, one point of view. Sometimes I include
 18 some of it, sometimes I include all of it, sometimes I
 19 include none of it.
 20 **Q Just curious. The points that people**
 21 **wanted you to say or encouraged you to say, were there**
 22 **things they didn't want you to talk about or they**
 23 **didn't want you to say?**
 24 A Were there points that they didn't want me
 25 to talk about? I think we did want to stay away from

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1 this as an investment.
 2 **Q Okay. And why do you think so?**
 3 A Because I think it would create an
 4 expectation of people that was not accurate, an
 5 expectation among people who didn't understand
 6 cryptocurrencies; what they were, how they worked.
 7 **Q And do you remember who gave you --**
 8 A I do not.
 9 **Q -- that briefing point?**
 10 A I don't think there was a briefing point.
 11 That's just a general thing I recall when you asked,
 12 things to stay from. I recall that being one of those
 13 things.
 14 **Q Got it. The second paragraph of this**
 15 **article which reads, "In doing so, Kik, which has**
 16 **encountered growth issues, is trying to tap into the**
 17 **surging interest in cryptocurrencies," there's a URL,**
 18 **I'll own it, the quote continues, "and digital tokens**
 19 **associated with them. It also is experimenting with a**
 20 **potential way for its investors to essentially cash out**
 21 **of the company without actually selling their equity."**
 22 **Let me pause there. There's a couple of**
 23 **assertions made there. Was it true that at the time,**
 24 **Kik was trying to tap into the surging interest in**
 25 **cryptocurrencies in digital tokens?**

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1 A I would say no. I would say this was --
 2 Kik wasn't trying to tap into the surging interest.
 3 Kik was realizing -- I was realizing that my dream of
 4 having this fundamentally new business model was now,
 5 for the first time ever, not only just a good idea, but
 6 also economically viable.
 7 **Q Did you correct this article?**
 8 A I did not.
 9 **Q Did anyone at Kik?**
 10 A No.
 11 **Q Okay. The second piece of what I read,**
 12 **that Kik -- that it is also experimenting with a**
 13 **potential way for its investors to essentially cash out**
 14 **of the company without actually selling their equity.**
 15 **Was that true?**
 16 A I think what the author is trying to do
 17 here -- and I'm guessing.
 18 **Q Please.**
 19 A -- is trying to explain in their own words
 20 this new crypto business model. And I think they had a
 21 very limited understanding of what this is, why it
 22 would work, and why we would do it. And so, you know,
 23 when you asked me is this true in the last sentence
 24 there, like, what the business model is now for the
 25 shareholders of Kik is not a way to cash out of the

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1 company. It's a fundamentally new business model for
2 shareholders as well.

3 Before, your options are to sell the
4 company or go public. That's it. But now, there is a
5 third option, which is to own a big piece of an asset,
6 have that asset be very valuable, and dividend that
7 asset out to shareholders.

8 **Q Let me ask about that. Has Kik distributed**
9 **this asset as a dividend to shareholders?**

10 A We have not.

11 **Q Have you considered it?**

12 A That's the whole model. We've absolutely
13 considered it, and I'm looking forward to the day when
14 we can do that.

15 **Q When would that day -- like, what has to**
16 **happen for that day to come?**

17 A I think we have to -- maybe it's based on
18 advice from counsel.

19 **Q Okay. Don't give me that advice.**

20 A Yeah.

21 **Q Which lawyer?**

22 A Cooley's.

23 **Q Okay. When?**

24 A Ongoing. Like, this is the -- being able
25 to have this asset become more valuable and to then

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1 on this first page that begins, "The company said" --

2 A Yeah.

3 **Q -- do you see that? "The company said it**
4 **hopes that the tokens will entice more developers to**
5 **build apps for the platform. If they receive the**
6 **tokens as payment, and those coins then appreciate in**
7 **value, developers would gain even more from working on**
8 **Kik."**

9 **First, was that a true statement of the**
10 **vision at the time?**

11 A I think this is the journalist trying to
12 explain the vision in their own words. I would say
13 this is not how I would explain it.

14 **Q It begins with, "The company said." Are**
15 **you saying the company did not say that?**

16 A I think what the company did say is that
17 the currency -- like, it's a fundamentally new business
18 model for Kik and every other developers. It's the
19 currency that creates that business model, so it's the
20 currency that is going to entice developers to build
21 apps that integrate Kin. I think everything after that
22 is their interpretation.

23 **Q About the coins appreciating in value?**

24 A Yeah. For example, "would gain even more
25 from working on Kik," like, that sentence doesn't make

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1 dividend -- to sell some of that asset to -- you know,
2 as the revenue plan for the company, but also to be
3 able to dividend some of that asset as the reward for
4 shareholders with investors in the team, that is the
5 fundamental of what makes this a win for that group.

6 **Q Got it. And I should have asked this more**
7 **clearly. In terms of the envisioned dividend one**
8 **day --**

9 A Yeah.

10 **Q -- is it a dividend of Kin or is it cash**
11 **obtained from selling Kin?**

12 A We don't know, for tax reasons mainly, but
13 my preference would be a dividend of Kin.

14 **Q And then the investors of Kik Interactive**
15 **could do what they want with the Kin?**

16 A Correct.

17 **Q Okay. Other than advice of counsel, which**
18 **I do not want to hear about, are there business reasons**
19 **why Kin -- excuse me -- why Kik has yet to act to**
20 **distribute Kin or cash obtained by selling Kin to**
21 **investors?**

22 A No. Only -- it would only based --

23 **Q Advice of counsel?**

24 A It would be advice of counsel.

25 **Q I don't want to know. The last paragraph**

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1 sense.

2 **Q Oh, that should say Kin?**

3 A And it shouldn't even say "working." It
4 should say "from integrating Kin into their apps."

5 **Q Fair enough. Okay.**

6 A So that's why I said, like, we wouldn't say
7 that because it's just factually incorrect.

8 **Q Understood.**

9 A Logically incorrect.

10 **Q Let me point you to one other piece of this**
11 **article before we're done with it. It's on the second**
12 **page. Towards the middle, there's a paragraph**
13 **beginning, "By offering a token."**

14 **Do you see that?**

15 A Yep.

16 **Q It reads, "By offering a token rather than**
17 **equity, the company hopes to raise funds without**
18 **diluting existing shareholders. But shareholders' path**
19 **to monetizing their holdings in the company will now be**
20 **tied to the token. Mr. Livingston explained," quote,**
21 **"it was a very hard sell," end quote, "to Kik's**
22 **investors. Mr. Livingston said of the plan," quote,**
23 **"there was a lot of disagreement," end quote.**

24 A Uh-huh.

25 **Q Did you say that?**

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1 A I did say it was a very hard sell. There
2 was a lot of disagreement, yes.

3 **Q And tell me about that hard sell in that**
4 **disagreement.**

5 A You also shared the previous paragraph,
6 which provides context for this. So maybe I should
7 explain the previous paragraph first.

8 **Q That's great.**

9 A I think this is one of the biggest
10 misconceptions in sort of, like, the general audience.
11 For example, this journalist thinking about this is --
12 oh, it's a token instead of equity. The token and the
13 equity, actually, they're fundamentally different. But
14 people don't understand crypto. They don't understand
15 what it is, where it's going, and so they're trying to
16 compare it to something they know.

17 Like, for me, it wasn't that we were
18 offering a token instead of equity. It's that we were
19 opting for a fundamentally new business model. We were
20 getting a new asset that would have guaranteed scarcity
21 that we would own, and therefore, our shareholders
22 would own pro rata that asset, whatever is left over at
23 the end of the day.

24 So when I read that, I'm like, no, that's
25 fundamentally untrue, logically untrue for what is a

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1 crypto business model. So that's why I'm saying when
2 I -- what was a hard sell? Not that above, because
3 what's above is logically untrue. What was a hard sell
4 was convincing our investors that this could be a
5 fundamentally new business model. Let me play it back.

6 What I was trying to convince the board and
7 the investors in a very tough time was that I was the
8 first in the world to discover the third monetization
9 model in the history of the internet and that it would
10 work for us. There was obviously a lot of skepticism
11 that I would be the first in the world to discover the
12 third monetization model in the history of the
13 internet. And so that made it a very hard sell.

14 And there was a lot of disagreement about
15 that because it's a very -- it was a crazy idea and it
16 was a very tough time in the company.

17 **Q So we talked about yesterday, I think it's**
18 **fair to characterize, you perceived a challenge in**
19 **raising this idea inside the company and then talking**
20 **about it and persuading people inside the company about**
21 **the Kin project, right?**

22 A Correct.

23 **Q Is that what you're referring to there?**

24 A Yes.

25 **Q Anything else?**

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1 A No. Not to my knowledge.

2 **Q Fair enough. The last line of this article**
3 **quotes you, and it reads, quote, "It's a fundamentally**
4 **new way to exit," end quote, "he said of the digital**
5 **tokens." Did you say that?**

6 A I did.

7 **Q And the exit you're describing is for**
8 **investors out of their Kik Interactive equities?**

9 A No.

10 **Q Who is exiting and what are they exiting?**

11 A Maybe "exit" is the wrong term. What I was
12 trying to get at is this is a fundamentally new way for
13 investors to monetize their equity holdings. So
14 before, the only ways you could exit were by selling to
15 another company or by doing an IPO. That was the only
16 two options in history. The third option was to go
17 bankrupt. Those are the only ways in history that you
18 could exit.

19 And likewise, that this was, you know, a
20 brand new monetization model for developers, it was
21 also a brand new monetization model for investors and
22 their holdings. And so what I meant by this is, you
23 know, a way to exit, a way to get paid, get a return
24 from their investment in the company.

25 So, actually, logically, I don't think

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1 there actually will be any exit at the end of the day.
2 There might just be a dividend, but that would be it.

3 **Q Right. Have there -- has there been --**
4 **since the -- since the sale of Kin tokens in September**
5 **of 2017, have investors in Kik Interactive pushed for**
6 **there to be a dividend?**

7 A I think there was a time when it was
8 raised. Like, wow, if this is a great new business,
9 like, why don't we try it out a little bit and get a
10 bit of a dividend. I can't recall exactly. But
11 ultimately, we decided not to do that.

12 So I think that idea might have been
13 floated at some point, but we never did that.

14 **Q I think we talked about this earlier. The**
15 **decision not to do that or when to do that isn't driven**
16 **by business considerations other than advice of counsel**
17 **discussions; am I right?**

18 A There were business considerations, but I
19 would say those would directly factor into the advice
20 from counsel. I couldn't pull them apart for you.

21 **Q Fair enough. I don't want to push.**

22 **Rounding out marketing or awareness raising**
23 **efforts for the Kin sale, did you go on podcasts?**

24 A Yes. I believe I did. I don't remember
25 any specifically, but I would assume so.

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1 **Q Just to ring a bell, did you appear on a**
 2 **Finance Magnates podcast as part of the promotion**
 3 **efforts?**

4 A Rings a bell, but I can't remember
 5 specifically.

6 **Q Okay. Any others ring a bell?**

7 A I can't remember any specifically.

8 **Q We're going to talk more this afternoon**
 9 **about a term "minimum viable product" prepared for the**
 10 **public sale. Do you know that term?**

11 A I do.

12 **Q And what was the minimum viable product for**
 13 **the public sale -- in connection with the public sale?**

14 A What is a minimum viable product or what
 15 was our minimum viable product?

16 **Q Let's take it one by one.**

17 **What is a minimum viable product?**

18 A A minimum viable product is an industry
 19 term to help people think about what is the minimum set
 20 of sort of functionality that can be built and
 21 incorporated in a launch that satisfies everything that
 22 needs to be satisfied for this to -- for this launch to
 23 achieve what it's trying to achieve.

24 **Q And what was the minimum viable product**
 25 **developed in connection with the Kin sale?**

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1 A So when it came to launching Kin inside of
 2 Kik, like, obviously, we had to create Kin, but we also
 3 wanted there to be ways to use Kin on day one. And
 4 then there would be many, many more ways to use Kin,
 5 obviously, over time. And so when it came to, okay,
 6 well, what's that -- you know, there's lots of things
 7 that are happening, but one of the things that's
 8 happening is Kin is getting integrated into Kik.

9 So the question is, okay, well, what does
 10 that thing need to solve for? Like, if we did any
 11 less, it would not be viable. So from there, there
 12 were technology considerations. There were user
 13 experience considerations. There were strategic
 14 considerations. And then there were also compliance
 15 considerations.

16 And so when we look at all of those
 17 considerations and all the different options, what we
 18 ended up launching, what we called the minimum viable
 19 product of Kin inside Kik, was the ability to unlock
 20 different levels of stickers based on your Kin balance
 21 to be able to verify your status to other people in
 22 Kik, the chat community.

23 **Q Got it. And we'll talk more about how that**
 24 **idea evolved or was developed.**

25 **The ability to unlock various levels of**

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1 stickers was the minimum viable product, right?

2 A Uh-huh.

3 **Q Those stickers and the ability to unlock**
 4 **that, how was -- how was that marketed or communicated**
 5 **in advance of the public sale?**

6 A I don't recall.

7 **Q Did you tell anyone about it?**

8 A We had certainly lots of discussions about
 9 it internally. Do you mean externally?

10 **Q I do. And I apologize, yes.**

11 A I'm not sure. Like, I believe it was in
 12 the SAFT document, but I'm not sure. Some people would
 13 have seen that if it was in there. I believe it was on
 14 the website. I believe it was part of the token sale
 15 materials. But I can't recall any of those things
 16 specifically.

17 **Q You think on the website.**

18 **What do you remember?**

19 A I don't recall what was on the website
 20 beyond the white paper.

21 **Q So do you know if -- were the stickers**
 22 **themselves shown on the website?**

23 A I don't recall, but I don't think so.

24 **Q Okay.**

25 A But I don't recall.

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1 **Q Was there a description that they would be**
 2 **available on the website?**

3 A I don't recall.

4 **Q Don't recall either way?**

5 A Don't recall.

6 **Q Okay. So you went on -- you went on a road**
 7 **show. You went to conferences. You met with**
 8 **journalists. You went on at least one podcast,**
 9 **correct?**

10 A Uh-huh.

11 **Q Did you tell anyone about the availability**
 12 **of sticker packs?**

13 A I don't recall. I, you know, do recall
 14 talking about Kik Points. Kik Points -- using Kik
 15 Points to buy stickers was a -- you know, a widely used
 16 thing, so probably would talk about that. But in terms
 17 of what we would do with stickers for Kin and at the
 18 time of the token sale, I don't specifically recall.

19 **Q Is it fair to say that the availability**
 20 **of -- the ability to unlock levels of sticker packs,**
 21 **that wasn't a primary part of your pitch about the Kin**
 22 **project?**

23 A I think the primary part of the Kin project
 24 was the vision for sure and what we would do. I think
 25 part of the explanation was our history with Kik

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1 Points, which stickers were the first thing we did with
2 Kik Points, so I'm sure that was part of it.

3 In terms of what the exact functionality
4 would be on the day of the token sale, I can't recall
5 what exactly I said or didn't say.

6 **Q You don't recall ever saying there will be
7 sticker packs available?**

8 A I don't recall not saying it. I don't
9 recall.

10 **Q You don't know either way?**

11 A I don't know either way.

12 **Q Okay. Did Kik purchase online
13 advertisements in advance of the public sale?**

14 A I believe we did, yes.

15 **Q From whom?**

16 A I can't recall exactly. But I think
17 Facebook and Google, if I had to guess.

18 **Q Did -- as part of that, did Kik target
19 certain types of users or demographics for Facebook or
20 Google ads?**

21 A I can't recall. Like, I don't know. I
22 don't recall. And I don't think I knew at the time,
23 actually.

24 **Q Who would have led that effort?**

25 A Probably somebody in marketing, but I'm not

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1 sure who.

2 MR. MITCHELL: Someone -- excuse me.

3 Someone who worked for Erin Clift?

4 THE WITNESS: Yes, that would be my guess.

5 BY MR. LEASURE:

6 **Q Fair enough. We saw some potential use
7 cases --**

8 A It might not have been, though. It might
9 have been somebody in Israel. I'm not sure. Now that
10 I say that, I'm not sure.

11 **Q I apologize for interrupting.**

12 A Sorry. I apologize for interrupting you.

13 **Q We talked -- we saw some potential use
14 cases in the white paper. Do you remember that?**

15 A Yep.

16 **Q As part of talking about or promoting the
17 upcoming Kin sale, were other specific use cases
18 discussed?**

19 A I can't -- I'm sure we talked about it,
20 like a digital economy, what are all the ways that
21 people can exchange -- create and exchange value
22 through their phones. So I'm sure we did talk about
23 other ways, but nothing specifically comes to mind.

24 **Q Were there use cases in place at the time
25 of the public sale in September of 2017?**

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1 A There was the use case of unlocking
2 stickers inside Kik.

3 **Q And other than that, were there any others
4 that you know of?**

5 A I don't believe. Not to my knowledge. I
6 don't think there were others.

7 **Q So to the extent there weren't use cases
8 other than unlocking stickers, why did people buy Kin
9 then in September of 2017?**

10 A A lot of people ended up buying Kin.

11 **Q Yeah.**

12 A So I can't speculate or have any way of
13 knowing why all of them bought Kin. But, you know,
14 whenever I would speak at events, people would --
15 whenever they would come up to me after, they would say
16 to me, "This is what the world has been waiting for.
17 The world needs this. And I want to be part of this."

18 **Q Let me just -- let me just push on that and
19 get your impression.**

20 A Sure.

21 **Q If someone wanted to be part of the
22 ecosystem in the future where there were use cases?
23 Like, let's say you could, you know, buy certain
24 content with Kin or a developer could integrate it into
25 his or her app, right?**

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1 A Uh-huh.

2 **Q Let's say they were even enthusiastic about
3 doing so. Why would they buy in September of 2017?**

4 **In other words, why wouldn't they wait for
5 use cases to be realized and then buy?**

6 A I think there is many different ways that
7 people could contribute to the success of a
8 cryptocurrency. I think that's the transformative
9 feature of a cryptocurrency is everybody has stake,
10 everybody becomes evangelists. And so everybody
11 operates in their own self-interest to create more
12 demand, and therefore, make their own Kin more
13 valuable, they'll be making everybody else's Kin more
14 valuable as well.

15 Some of those could be consumers using it
16 in an app. Some of those could be developers. Those
17 could be brands. Those could be just people who want
18 to evangelize it to their friends and family.

19 **Q But other than just the desire to
20 evangelize future use cases, why would you buy --
21 again, I'm struck on: Why wouldn't you just wait for
22 the ecosystem to have a use case --**

23 MR. GIBBS: Objection to form. It's
24 argumentative.

25 BY MR. LEASURE:

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1 **Q You can answer.**
2 A What does that mean? I don't know what
3 that means, what my lawyer just said.
4 MR. MURTHA: It's an irrelevant objection.
5 You can answer the question.
6 MR. GIBBS: It means I think he's just
7 arguing with you instead of asking a question to seek
8 information. That's what it means.
9 THE WITNESS: Okay. So then I --
10 MR. GIBBS: You can answer if you have an
11 answer.
12 THE WITNESS: Okay. Can you repeat the
13 question?
14 BY MR. LEASURE:
15 **Q Sure. Again, if no use cases were in**
16 **place, why buy in September of 2017, as opposed to when**
17 **the ecosystem is further developed?**
18 A I think the biggest reason is, like, Kik
19 wasn't the only one struggling to compete in this
20 monopoly-controlled world. Many developers were. And
21 so to hear a billion dollar -- CEO of a billion dollar
22 company say, "Hey, I'm struggling like you, and I think
23 this is a solution for us," a lot of people are saying,
24 "I think this could be a solution for us, too."
25 And so to be part of that on day one -- to

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1 be part of that movement on day one and say, "Hey,
2 you're going to go do what you're going to do in Kik,
3 and I'm going to do what I'm going to do in my app, and
4 we're going to all do this together," was a very
5 powerful proposition.
6 **Q Do you know what percentage of purchasers**
7 **were -- in the public sale were developers versus other**
8 **types of people?**
9 A I can't say for sure. But I would say at
10 the time, even back then, most people who had gotten
11 into cryptocurrencies, were excited about Bitcoin, were
12 excited about the blockchain, were developers.
13 **Q But you don't know?**
14 A But I don't know.
15 **Q And did Kik ever gather data about that?**
16 A Not to my knowledge. Nothing I can think
17 of.
18 MR. LEASURE: Okay. Let's go off the
19 record.
20 MR. MITCHELL: Can I follow up on that real
21 quick? What developers bought Kin tokens in the sale
22 to the public?
23 THE WITNESS: I know some developers that
24 we know did specifically buy it. But I am sure that
25 many people who bought it were developers. But we

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1 didn't -- couldn't know which ones were and which ones
2 were not.
3 MR. MITCHELL: What ones do you know?
4 THE WITNESS: I don't have specific
5 recollection. I remember -- I seem to recall some of
6 our previous platform partners at the time buying some
7 Kin. I seem to recall maybe Betaworks was on those. I
8 could be wrong on that. So I don't have any specific
9 recollection.
10 MR. MITCHELL: And anyone other than
11 Betaworks?
12 THE WITNESS: I can't recall.
13 MR. MITCHELL: And you think Betaworks
14 bought in the public sale?
15 THE WITNESS: I can't recall when they
16 bought. I can't even recall if they did buy. I
17 remember that was -- that's a name that jumps to my
18 memory.
19 MR. MITCHELL: Okay. So then sitting here
20 right now, do you know any developers who bought Kin
21 tokens in the sale to the public?
22 THE WITNESS: I don't think there would be
23 a way for me to know because it's not a question we
24 asked. I can only speculate.
25 MR. MITCHELL: In the last 14 months or

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1 13 months, have you been working with developers who
2 are interested in the Kin token idea?
3 THE WITNESS: Actually, yeah. There are
4 developers at a minimum on Reddit who are building
5 applications for Kin, who do claim to have bought Kin
6 in the token sale.
7 MR. MITCHELL: Who?
8 THE WITNESS: For example, Kinny the Tip
9 Bot was built by people in the Reddit community -- in
10 the Reddit community. That app is alive on Android
11 Google Playstore today.
12 MR. MITCHELL: So the Kinnit bot?
13 THE WITNESS: Sorry? Kinny the Tip Bot.
14 MR. MITCHELL: Kinny the Tip Bot.
15 THE WITNESS: Correct. So those are
16 developers who came together, met through the
17 community, and decided to launch this application
18 together.
19 MR. MITCHELL: Okay. Anybody else?
20 THE WITNESS: There's quite a few examples
21 like that in the community today. That's the biggest
22 one that comes to mind. But I'm quite sure -- I'm
23 pretty sure there are others, but you could find out if
24 you go on Reddit and find it.
25 MR. MITCHELL: Sure. How big is it?

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1 How big is the tip bot?
 2 THE WITNESS: What?
 3 MR. MITCHELL: You said it's the biggest --
 4 THE WITNESS: No. I said it's the name
 5 that comes to mind. It's the most obvious example.
 6 They built a great app. So I personally like it, so
 7 that's why it comes to mind. But there are others.
 8 MR. MITCHELL: Are there any other
 9 developers that you've worked with since the sale --
 10 THE WITNESS: Why don't you -- like, I
 11 didn't work with those developers. They did work as
 12 part of the developer program. But I'm pretty sure --
 13 I'm not sure. I think my best guess would be that I
 14 recall them saying they bought Kin in the original
 15 token sale.
 16 MR. MITCHELL: On Reddit, they said that?
 17 THE WITNESS: Correct.
 18 MR. MITCHELL: They didn't say it you
 19 personally?
 20 THE WITNESS: No. I haven't talked to
 21 token sale purchasers personally. I probably have and
 22 didn't know, but it's not something I do -- I do on
 23 Reddit.
 24 MR. LEASURE: Off the record.
 25 THE VIDEOGRAPHER: This concludes Disc

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1 Number 2. Going off the record.
 2 The time is 12:46 p.m.
 3 (Recess.)
 4 THE VIDEOGRAPHER: This begins Disc
 5 Number 3. We are back on the record.
 6 The time on the video monitor is 2:04 p.m.
 7 BY MR. LEASURE:
 8 **Q Back on the record after a lunch break**
 9 **during which, Mr. Livingston, did you have any**
 10 **substantive conversations about this investigation with**
 11 **SEC staff?**
 12 A I did not.
 13 **Q So let's say I'm someone who bought Kin in**
 14 **the September 2017 token sale.**
 15 A Okay.
 16 **Q What could I do with my Kin?**
 17 A You could use it inside Kik to unlock
 18 different levels of status represented by different
 19 levels of stickers, send those to anybody inside the
 20 Kik community. You could trade it back and forth.
 21 Just like any cryptocurrency, we can't
 22 control what you can do with it. You could integrate
 23 it into an app if you wanted to do that as well.
 24 **Q Okay. Let's start with the trading. I**
 25 **take it at that point, Kin was on the Ethereum**

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1 **blockchain?**
 2 A Correct.
 3 **Q And so I could -- just like with any**
 4 **crypto, I could use -- I could trade it to other people**
 5 **for anything, right?**
 6 A Right.
 7 **Q I could give it away. I could trade it for**
 8 **a service. I could trade it for money. I could do**
 9 **anything I wanted with it?**
 10 A Correct.
 11 **Q Okay. And did Kik -- apologies if I've**
 12 **asked this before. Did Kik track that in the, let's**
 13 **say, weeks after the September 2017 sale, what was**
 14 **happening on Ether?**
 15 A Not to my knowledge.
 16 **Q Okay.**
 17 A Not that I recall.
 18 **Q And did Kik have any way of knowing what**
 19 **people were doing with their Kin on the Ethereum**
 20 **blockchain?**
 21 A Not that I can think of.
 22 **Q And if you --**
 23 A I'm not sure.
 24 **Q Let me ask that in a better way. Whether**
 25 **they were using it to buy goods and services, whether**

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1 **they were using it, you know, to trade it for other**
 2 **currencies, is there a way that Kik had to tell what**
 3 **people were doing with it?**
 4 A No.
 5 **Q Okay.**
 6 A I don't think so.
 7 **Q Inside the Kik messaging app, I could use**
 8 **Kin to unlock sticker packs -- sticker packs for**
 9 **status, correct?**
 10 A Correct.
 11 **Q And by "unlock," that means I didn't have**
 12 **to pay for those stickers. I would just show that I**
 13 **had a certain amount of Kin and get access to sticker**
 14 **packs?**
 15 A Yeah. You would verify that you owned a
 16 certain amount of Kin. And based on that verification,
 17 it would unlock certain sticker packs.
 18 **Q And that, not to restate what you said, it**
 19 **was the minimum viable product?**
 20 A That was the product experience we launched
 21 with on day one inside Kik.
 22 **Q And just to be clear, I see references in**
 23 **the documents to MVP, or minimum viable product.**
 24 A Yeah. I think that's the MVP inside of
 25 Kik. Like, the reason I am hesitating is --

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1 **Q Yeah.**

2 A -- you know, there's also, like, the MVP
3 for creating the token and, like, creating the smart
4 contract to do the token sale. Like, there's -- that
5 wasn't the only thing. That was the MVP inside of Kik.

6 **Q Got it. Okay. And other than -- on top --**
7 **other than unlocking sticker packs within the Kik**
8 **messaging app, what else, if anything, could I in**
9 **September 2017 do with the Kin that I bought?**

10 A I believe that was the only thing you could
11 do inside of Kik.

12 **Q Okay.**

13 A There might have been other things with
14 earning, but I can't recall specifically.

15 **Q Did Kik, or anyone set up at that time**
16 **inside the Kik messenger app, a wallet for me to hold**
17 **my Kin inside Kik?**

18 A I believe some users were giving Kik,
19 depending on sort of their status within the community.
20 And so they would have a wallet with Kin in it for
21 people to purchased Kin in the token sale. I think we
22 would -- they would access their preexisting wallet.

23 So I don't think a new wallet was created
24 for them, but I'm not 100 percent sure.

25 **Q Preexisting wallet inside of the Kik**

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1 **messaging app or outside of it?**

2 A So any wallet is a public thing on the
3 blockchain. So it's not like -- you know, there's no
4 inside or outside. It's just a different way to view
5 what's happening on the blockchain.

6 **Q And were you describing what I've seen**
7 **referred to as an airdrop to certain Kik messenger app**
8 **users?**

9 A That was part of it, yes. So certain Kik
10 users got Kin given to them for free based on their
11 historical participation in the community. Getting
12 those first users using it, they could unlock stickers.
13 And then also, anybody who purchased it in the token
14 sale could also unlock stickers.

15 **Q Okay.**

16 MR. MITCHELL: The people who Kik gave Kin
17 to outside the sale, did that happen at that same time
18 that the sale happened?

19 THE WITNESS: I can't recall the exact
20 timing.

21 BY MR. LEASURE:

22 **Q And why did Kik give them Kin?**

23 A I think it was just another -- I can't
24 recall. My guess would be that it's just another way
25 to test this out, this new technology, new product, et

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1 cetera.

2 **Q Could -- again, I bought Kik -- let's say I**
3 **bought Kin on day one of the public sale.**

4 **Could I engage in peer-to-peer transactions**
5 **inside the Kik messaging app with my Kin?**

6 A You could not. Not to my knowledge.

7 **Q Why not?**

8 A Why not? The reason for that was the
9 blockchain technology was very new and immature. And
10 so I think our concern was with the current state of
11 blockchain technology, if we enabled that, there's a
12 potential that we could crash the Ethereum network,
13 which would not just hurt all Kin users inside of Kik,
14 obviously, but would hurt all users of Ethereum
15 broadly. And we didn't want to do that.

16 **Q At some point, and I apologize, I can't**
17 **remember where, I think I may have seen or heard a**
18 **reference to concerns about safety as well. That if**
19 **people on day one could buy or could transfer Kik --**
20 **Kin to each other inside the Kik messaging app, there**
21 **might be safety concerns.**

22 **Does any of that ring a bell or is that not**
23 **consistent with your memory?**

24 A I think safety has always been a concern
25 for us, so it doesn't surprise me that we would be

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1 thinking about safety in peer-to-peer transfers as
2 well.

3 **Q But do you remember thinking -- do you**
4 **remember specifically thinking about that in connection**
5 **with peer-to-peer transfers for Kin?**

6 A Yeah, I think -- I do remember thinking
7 about safety broadly when it comes to cryptocurrencies,
8 and specifically when it comes to cryptocurrencies
9 inside Kik.

10 **Q Okay. And, again, we're on day one. I**
11 **bought -- say I bought in the Kin sale in**
12 **September 2017. Could I, at that time, earn Kin via**
13 **the Kin Rewards Engine?**

14 A As a developer?

15 **Q As anyone?**

16 A So the Reward Engine is for developers.

17 **Q Okay.**

18 A The Reward Engine was not running then and
19 is not running today.

20 **Q That's what I was going to ask you.**
21 **It's not running today?**

22 A Correct.

23 **Q In terms of today -- so we've walked**
24 **through what could or couldn't be done with Kin as of**
25 **September 2017.**

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1 A Uh-huh.

2 **Q It's now November of 2018.**
3 **What has changed?**

4 A Many things have changed. Where do you
5 want me to start?

6 **Q Okay. Can I do -- is there a wallet inside**
7 **of Kik?**

8 A There is a wallet inside of Kik.

9 **Q So I can show my balance -- that wallet**
10 **shows my balance inside the Kik messaging app?**

11 A So there is a wallet in Kik today. It's on
12 the new fork of Stellar blockchain. There's also the
13 old wallet for the Ethereum blockchain, the new wallet
14 for the Stellar -- fork of Stellar blockchain, if we
15 just call it the Kin blockchain.

16 Today, you can use it to earn in the
17 marketplace by doing things like filling out surveys.
18 And you can spend it on things like chat themes. You
19 can spend it on chat themes. That's today the extent
20 of the functionality in Kik.

21 **Q Inside the Kik messaging app?**

22 A Correct.

23 MR. MITCHELL: And the tokens that are
24 being transacted there, are those tokens on the new --
25 on the Kin blockchain or on the Ethereum blockchain?

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1 THE WITNESS: It's technically both. Like,
2 so if you -- you can earn and spend on stickers on the
3 Ethereum blockchain, and then you can earn and spend on
4 chat themes on the new Kin blockchain.

5 MR. MITCHELL: So if someone earns tokens,
6 there's actually a transaction on the Ethereum
7 blockchain that adds -- gives them Kin tokens?

8 THE WITNESS: I believe so, yes. There are
9 ways to earn Kin that exist on the Ethereum blockchain.

10 MR. MITCHELL: From inside the Kik app?

11 THE WITNESS: Correct. That's my
12 understanding.

13 MR. SCHLEGELMILCH: I think you said in
14 response to an earlier question that Kik did have not
15 the ability to -- Kik had the ability to see how many
16 transactions there were, but with the ERC-20
17 blockchain, it couldn't tell what those transactions
18 were, whether it was -- whether it was through an
19 exchange or whatever sort of the tenor of the
20 transaction.

21 Is that also true with respect to the
22 Stellar fork blockchain, you can tell sort of the
23 quantity of them but not their character, like, what
24 they're for?

25 THE WITNESS: I think you can tell what

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1 application they're inside of.

2 MR. SCHLEGELMILCH: Okay.

3 THE WITNESS: But not what the exact
4 transaction was inside that app.

5 MR. SCHLEGELMILCH: Okay. And when you say
6 what application they're inside of, what does that
7 mean?

8 THE WITNESS: So today, I think we have
9 roughly ten apps live in the Apple app store or the
10 Google Playstore that have integrated Kin, places
11 consumers around the world can go to earn and spend and
12 use Kin.

13 MR. SCHLEGELMILCH: Okay.

14 THE WITNESS: So you can tell by the
15 blockchain which applications those transactions are
16 being generated by.

17 MR. SCHLEGELMILCH: Okay. Are there
18 transactions that are not being generated by those
19 apps?

20 THE WITNESS: On the -- on the fork of
21 Stellar, not to my knowledge. Just by those apps.

22 MR. SCHLEGELMILCH: Okay. Okay.

23 MR. MITCHELL: Can people exchange Kin
24 tokens that are on the Stellar -- fork of Stellar
25 blockchain for other currencies?

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1 THE WITNESS: Not yet.

2 BY MR. LEASURE:

3 **Q So currently, there are developers and apps**
4 **that will accept Kin in exchange for goods or services?**

5 A Yes.

6 **Q Okay. Rolling back the clock. It's**
7 **September of 2017.**

8 **Which developers or apps accepted Kin?**

9 A Just Kik.

10 **Q That's it? You were unaware of any others?**

11 A Correct.

12 **Q Okay.**

13 MR. MITCHELL: What did Kik accept them
14 for?

15 THE WITNESS: Kik allowed you to unlock
16 stickers based on your balance.

17 MR. MITCHELL: So did Kik -- did Kik
18 provide any goods and services to people in return for
19 Kin tokens?

20 THE WITNESS: If you're saying in terms of
21 actually spending them where Kik would take your tokens
22 in return for something, no.

23 MR. MITCHELL: And what about the opposite?
24 Did Kik provide goods and services -- I'm sorry.

25 The opposite would be: Did Kik pay people

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1 Kin -- at the time of September of 2017, did Kik have
2 any systems where it was paying people Kin tokens for
3 them to do goods and services for Kik?

4 THE WITNESS: So the airdrops were given to
5 Kik users based on how much of a power user they were
6 inside the Kik ecosystem. So in a way, they were
7 getting paid for being good users. I'm not sure. I
8 know either then or shortly after, we rolled out the
9 ability to earn, I believe, from doing surveys. But I
10 can't remember the exact sequencing of that in timing.

11 MR. MITCHELL: Was that -- were there
12 surveys at the time that people got their -- made the
13 decision to buy Kin tokens?

14 THE WITNESS: I can't recall.

15 MR. MITCHELL: Okay.

16 BY MR. LEASURE:

17 **Q So we see in documents, starting around May**
18 **of 2017, some discussion about should there be an MVP,**
19 **what should the MVP be for the upcoming token sale.**

20 A Uh-huh.

21 **Q Does that ring a bell with you, that there**
22 **were discussions about that?**

23 A It does.

24 **Q Okay. At a high level -- I'm going to walk**
25 **you through some documents to see if it refreshes your**

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1 **recollection. What do you remember about those**
2 **discussions as they evolved over time?**

3 A About what the MVP was?

4 **Q Yeah.**

5 A So I think when you're launching any new
6 product, you're trying to figure out what is the
7 minimum viable version of that product. What defines
8 viable is depending on what the product is you're
9 launching. In the case of Kin, I think the pieces that
10 would contribute to viability would be it has to work
11 from a user point of view, you know.

12 It has to work well for the users that are
13 exposed to it. It has to work from a technology point
14 of view. The technology needs to be able to support
15 it. It has to work from a compliance point of view and
16 all applicable laws. And it has to work from a
17 strategic and timing point of view.

18 So I think those would be the four things
19 that would contribute to what we decided would be our
20 minimum viable product, that first product we would
21 launch with Kin.

22 **Q And this -- the access to sticker packs as**
23 **an MVP, it complied -- it met those criterion you just**
24 **described?**

25 A I think it was the -- it was the best -- of

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1 all the options, it was the best option on all of those
2 criteria, yes.

3 **Q What were the other options being**
4 **considered?**

5 A I don't remember any specific options being
6 considered. I think what I do remember is, you know,
7 some of those different pieces. So from a technology
8 point of view, Ethereum could handle almost no
9 transactions per second. So if we did lots of earning
10 and spending, like we had with Kik Points, millions of
11 people earning and spending, if we just put that on the
12 blockchain, the whole thing would grind to a halt.

13 In fact, I do remember doing a calculation
14 that if we simply wanted to give 10 Kin to all of your
15 users just to get them started, just one time 10 Kin,
16 even if they never used it from there, they never
17 earned more or spent any of it, that operation alone
18 would bring the Ethereum network to a halt for
19 something like 30 days.

20 **Q Just the distribution of 10 to Kik users?**

21 A Correct. So there's a technology piece.
22 The punch line there is the technology was very young.
23 There was a product piece. There was word outside Kik
24 is a chat community. You're interacting with new
25 people. When you interact with new people, signals of

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1 status are important.

2 And so it felt like there would be a good
3 utility there for our user base to be able to do that
4 with Kin. And then there was also strategic. We had
5 outlined our entire vision for the world to publicly
6 see and copy in May. We were very concerned that once
7 again, we would get copied and crushed, and our very
8 concern that once again we will get copied and crushed.
9 And so we wanted to move quickly.

10 MR. MITCHELL: What user base were you just
11 mentioning that would like the stickers or...

12 THE WITNESS: I don't understand the
13 question.

14 MR. MITCHELL: Am I right you just said
15 that you -- that you considered that the stickers --
16 that this was a chat app and that showing status was --
17 had value --

18 THE WITNESS: Uh-huh.

19 MR. MITCHELL: -- to the user base.

20 THE WITNESS: Correct.

21 MR. MITCHELL: Is that right?

22 THE WITNESS: Correct.

23 MR. MITCHELL: What user base?

24 THE WITNESS: The user base of Kik.

25 MR. MITCHELL: The messaging app?

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1 THE WITNESS: Correct.

2 BY MR. LEASURE:

3 **Q I think you mentioned one of the criteria**
4 **or things being looked at was compliance; is that**
5 **right?**

6 A Yep.

7 **Q Did Kik attempt to develop sticker packs as**
8 **an MVP in part of concerns for compliance with**
9 **securities laws?**

10 A We considered all applicable laws when
11 we -- you know, money transmission is another area I
12 would put into compliance. And it was also technology.

13 **Q Okay. But, again, was it in part of -- out**
14 **of concern for complying with the securities laws?**

15 A I'm trying to think. I don't want to do
16 the privileged thing. We were getting advice at the
17 time on this initial product. Some of that advice --
18 again, I'm just trying to --

19 MR. GIBBS: Let me see if I can help.

20 THE WITNESS: Okay.

21 MR. GIBBS: It's okay in answering his
22 question to identify the subject matter of the advice.

23 THE WITNESS: So yes.

24 BY MR. LEASURE:

25 **Q So you discussed with Kik's counsel what**

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1 **MVP should accompany the public sale?**

2 A Yes.

3 **Q That was Cooley?**

4 A Yes, to the best of my knowledge.

5 **Q No one else -- no other counsel you**
6 **remember?**

7 A I know we had a bunch of different counsels
8 in the company at the time. I can't remember which law
9 firms were working on what.

10 **Q Fair enough. Okay. Let me show you a**
11 **document.**

12 MR. MITCHELL: Earlier, you talked about
13 compliance in terms of not wanting to violate -- having
14 product violate the law. Did I understand that right?

15 THE WITNESS: I think we -- I don't know.
16 We wanted to make sure that anything we did, whether a
17 token sale or anything we've done ever in the history
18 of the company, would comply with all known laws.

19 MR. MITCHELL: So I guess I'm trying to
20 understand. Was your concern that somehow -- that
21 giving people access to the stickers might violate some
22 law?

23 THE WITNESS: I think we -- I don't think
24 it was about the stickers violating a law. I think it
25 was about the broader idea of, you know, making --

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1 ensuring that this met the legal definition of a
2 currency, which is how we viewed it.

3 MR. MITCHELL: Again, we're just staying on
4 this subject. The "this" you're talking about is that
5 the Kin token met the definition of the currency?

6 THE WITNESS: Correct.

7 BY MR. LEASURE:

8 **Q I'm going to show you a document that's**
9 **previously been marked as Exhibit 179. Take a look and**
10 **let me know when you're ready. I'll identify it for**
11 **the record. It's a one-page printout of an e-mail**
12 **chain ending June 10th, 2017, with the subject "Crypto**
13 **MVP/Alpha," A-I-p-h-a.**

14 A Uh-huh.

15 **Q And has the Bates stamp KIK 103267.**

16 **Mr. Livingston, what is this document?**

17 A This appears to be an e-mail -- e-mail
18 thread.

19 **Q Okay. From Eran Ben-Ari?**

20 A Yep.

21 **Q Okay. And do you -- do you remember this**
22 **e-mail discussion?**

23 A I do.

24 **Q Okay. Backing up for a minute. We've been**
25 **a talking about the MVP. Can you -- can you place this**

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1 **in the context of discussions about what an MVP should**
2 **be?**

3 A An MVP should be a minimum viable product
4 that satisfies all pieces of what you're trying to
5 launch and test out.

6 **Q And this is people discussing the sticker**
7 **packs as a potential MVP. Do I have that right?**

8 A That's what it looks like.

9 **Q Okay. Eran's e-mail on June 5th that**
10 **begins the chain, do you see this?**

11 A Yep.

12 **Q He writes, "Hi, all. Below is a link to**
13 **the spec I wrote a few weeks ago. This was approved by**
14 **Nancy and later used as the basis for what Jairaj,"**
15 **J-a-i-r-a-j, "implemented within Kik."**

16 **Do you recall the specs that Eran is**
17 **referring to here?**

18 A I don't recall the specific spec, but I
19 have a recollection of generally being similar to what
20 we launched, is my guess.

21 **Q Specs for the sticker packs?**

22 A Right. And the functionality of unlocking
23 stickers based on your balance.

24 **Q Got it. And just from this e-mail, is it**
25 **right that around this time, the actual stickers**

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1 themselves are being developed by people at Kik?

2 A It looks like that, yes.

3 Q Do you remember that process, how they went
4 about doing that?

5 A I don't recall specifically. But from
6 this, it looks like they worked with Phil and Ilan to
7 get these stickers.

8 Q Okay. The next sentence says, "This
9 definition was written with one purpose only," in all
10 caps, "COMPLIANCE."

11 A Uh-huh:

12 Q "This is not an MVP for product purposes
13 nor to satisfy any good user experience with crypto
14 participants."

15 Do you -- do you -- did you agree with Eran
16 that the definition was written with one purpose only,
17 compliance?

18 A I think this is a bit of a complicated
19 question, I think. You know, as I said, we were --
20 when we lunched this thing about this minimum viable
21 product, we were thinking about it from a bunch of
22 points of view; the technology point of view, the
23 product point of view, the compliance point of view,
24 and the strategic point of view.

25 So I think what Eran is saying here is this

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1 entire product bottom up, and the MVP will not be used
2 in any way." Let me pause there because he says "we
3 discussed."

4 Do you recall discussions along the lines
5 that this e-mail is referring to?

6 A I do not, but I'm sure they happened.

7 Q Okay. Was there -- again, leaving aside a
8 discussion, did you have in mind that once Kin was
9 integrated into Kik, that the entire product, sticker
10 packs, would be rebuilt from the bottom up?

11 A I think maybe what's the context here of,
12 like, what would be rebuilt is important.

13 Q Please.

14 A I think to understand this, you have to
15 understand where Kin came from, which is -- the
16 original idea was let's take Kik Points and put it on a
17 blockchain. Like, if Kik Points alone was a
18 cryptocurrency, it would be the most used
19 cryptocurrency in the world.

20 And so to have that product, with all the
21 different ways to earn and spend it, and then to try to
22 put it on the blockchain meant that, like I said, even
23 just giving 10 Kin to our millions of users was not a
24 viable option with the current state of the technology.

25 And so what we had to do is we had to take

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1 spec from -- this spec is saying it's looking at what
2 are all the options, and it's -- this one is
3 primarily -- it's looking at it from a compliance first
4 point of view.

5 Q Okay. But the overall sticker packs and
6 their development --

7 A Uh-huh.

8 Q -- it's your view that that was not merely
9 developed for compliance purposes?

10 A I think it was the intersection of what the
11 technology could allow, what would be -- meet all
12 applicable laws from a compliance point of view, what
13 users would find valuable, and what we could launch and
14 get in market with, knowing that we had shared the
15 whole vision with the entire world, so that we could do
16 now today. It was the intersection of all of those
17 four. And I think -- yeah, it was the intersection of
18 all those four.

19 MR. MITCHELL: And the users that you were
20 just mentioning, those are the Kik app users?

21 THE WITNESS: Yep.

22 BY MR. LEASURE:

23 Q Okay. He further writes that -- following
24 where I was just reading, he writes, "We discussed that
25 once we integrate Kin into Kik, we will rebuild the

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1 all the things we had done and wanted to do with Kik
2 Points and narrow it down to what the blockchain
3 technology could support today. I think for Eran,
4 myself, and a lot of people, you know, that was a hard
5 thing to do, you know, sort of a frustration with a
6 technology.

7 But at the same time, when you launch
8 something, you get in the game, people get excited, it
9 accelerates the rate with which we could build out Kin
10 from there. So when -- like, rebuild, you know, there
11 was no earning and spending here. So I don't know if
12 rebuild, it's -- we would have to expand the product.

13 Q Okay. So you don't -- you don't recall --
14 it sounds like you don't recall the discussion that
15 Eran is referring to here?

16 A I don't recall. I do not recall this
17 specific discussion.

18 Q Okay. I'll take that back. Thank you.

19 So, obviously, you've described to me the
20 thinking that you recall going into deciding on sticker
21 packs as an MVP for Kin. Was there business or market
22 analysis done to decide what sticker packs appeal
23 versus other potential MVPs?

24 A Not that I can specifically think of.

25 Q Okay. I guess this might follow up from

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1 that, but let me ask anyway. Did Kik ever get any
2 feedback from potential Kin purchasers prior to the
3 public sale about sticker packs?

4 A I did hear from people that they thought it
5 was cool. Most -- these people I heard from were not
6 Kik users previously, but they became Kik users,
7 thought it was cool that they could bring their Kin
8 into Kik and unlock stickers, and that they had done
9 that and used that and thought it was cool.

10 Q Okay. So after the public sale, you heard
11 from some users that they had signed up for Kik and
12 accessed sticker packs?

13 A Right.

14 Q Okay. Can you tell me anything more about
15 those users or those discussions?

16 A Now, they're sort of offhand discussions
17 that was largely --

18 Q People you knew already or people who
19 reached out to you?

20 A People I knew already.

21 Q Like, a business or acquaintances or
22 friends or anything?

23 A This case I'm thinking of, it was somebody
24 from Cointree.

25 Q Oh, okay. So someone who had worked with

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1 we saw, from my point of view, a lot of bad things
2 happening, like just blatant scams.

3 And so I remember us wanting to be very
4 careful to make it clear that we were not like them in
5 any way, and that this was a legitimate project based
6 on years of thinking and not just some scam like so
7 many other projects we saw at the time.

8 Q And did anyone say, you know, to avoid
9 being seen like some of those other projects, we should
10 slow down this project, build out more?

11 A I think we -- like, we constantly
12 reevaluated the launch date for the token sale. I
13 think we pushed it back multiple times. And that was
14 for different reasons each time. That was for
15 technology reasons, you know, the technology took
16 longer to build than we thought. That was for product
17 reasons, you know, we were still building out the
18 product.

19 That was for compliance reasons, you know,
20 based on advice from -- it was a topic of discussion
21 with counsel at the time. But from my point of view, I
22 wanted to launch Kin as soon as possible.

23 Q Let me show you a document that might bear
24 on some of this. This is a document previously marked
25 as Exhibit 151. Take a look and let me know when

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1 you guys on the Kin project?

2 A Uh-huh.

3 Q Do you remember which person?

4 A It was -- what's his name? I could find
5 out. Daniel.

6 Q Someone -- Daniel from Cointree?

7 A Yes.

8 Q Got it. Okay. Moving forward in time.

9 So were there discussions in June involving
10 board members about whether to delay the public sale
11 and build additional functionality for Kin?

12 A I think we were constantly evaluating what
13 are all the options for the intersection of product,
14 technology, compliance, and timing.

15 Q And so you were always doing that -- we see
16 some references in June. Does anything ring a bell of
17 discussions with Fred Wilson and other people at the
18 board, anything like that, at that time?

19 A Yeah, rings a bell.

20 Q Tell me what you remember.

21 A I remember us being concerned about what
22 was happening in the industry at large at the time,
23 that a lot of sort of irresponsible things were
24 happening, a lot of scams were going on, you know,
25 there was a lot of excitement in the market. But also,

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1 you're ready. I'll identify it for the record as a
2 two-page printout of an e-mail chain ending June 13th,
3 2017, with the subject "Board Materials." Exhibit 151
4 has the Bates stamp Kik Foundation Cap 2701.

5 A Okay.

6 Q What is this document?

7 A It's an e-mail from Fred.

8 Q Okay. Just to point -- to move it ahead
9 maybe, do you see you are on the first e-mail in the
10 chain, your name is there?

11 A I do, yep.

12 Q Okay. And then it looks like you're off
13 the chain in the top. Do you see that?

14 A I do see that.

15 Q Okay. So I just want to focus on the part
16 you're on. Does this appear to be referring to a board
17 meeting, an upcoming board meeting?

18 A It does appear to be, yeah.

19 Q Okay. Something in June 2017, the board,
20 right?

21 A Uh-huh.

22 Q He writes, "Just so you both know, I'm
23 increasingly nervous about the speculative fever in the
24 token sale world. I will advocate that we take a very
25 cautious approach so Kik doesn't become the poster

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1 child for bad behavior."

2 Do you see that?

3 A I do.

4 Q And you were referring earlier to concern
5 about scams and things happening in this space.

6 Is that what Fred was concerned about here
7 or something else?

8 A I think what Fred was concerned about
9 here -- I can't say for him for sure.

10 Q Of course.

11 A But if I were to guess, it's what I was
12 concerned about as well, which as -- you know, we
13 viewed crypto as a fundamentally new business model, a
14 new way to compete, a new way to build value for
15 consumers. But so many of these other projects just
16 sort of looked like they had an idea overnight and were
17 launching a token sale and in cases selling very high
18 dollar amounts for those tokens.

19 And so I don't think here the concern is
20 that we had bad behavior. I think it was that we
21 wanted to do everything we could so that we wouldn't
22 get incorrectly lumped in with those that were
23 exhibiting bad behavior.

24 Q Got it. Okay. And did you and Ted -- you
25 are Ted. Did you and Fred talk about that?

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1 A Well, he sent this e-mail to me. And
2 everything he, like -- it was, like, a very interesting
3 time. Like, for me, it was super exciting because I
4 knew we were going to go all in on this dream I had had
5 for years. And that by doing that, it could save Kik,
6 but also save the consumer app industry broadly.

7 It could potentially become the most used
8 cryptocurrency in the world. And so I was very excited
9 on one side and very eager to get in the game knowing
10 that competition was coming and that people once again
11 would try to copy and crush us. On the other side, I
12 and along with Fred and many others were very concerned
13 about the state of the token market, seeing many
14 people -- even today, I think many of the top ten
15 currencies are never going to be used.

16 And so saying like we don't want any part
17 of that. And so how do you balance those two things is
18 a very delicate thing. On one side, it's exciting.
19 You know this is a massive opportunity, and you know
20 competition is coming once again.

21 And after having spent ten years of your
22 life on this, this time, you want to win. But at the
23 same time, seeing all of this bad behavior in the
24 market, and making sure that you are not going to get
25 incorrectly lumped into that bad behavior.

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1 Q So would you agree that there was on the
2 one hand attention to get into the market as soon as
3 possible to not be copied and crushed?

4 A It's not a matter of whether we get copied.
5 It's only a matter of whether we get crushed. And the
6 sooner we get in market, the larger lead we have, the
7 stronger we are as an ecosystem by the day that
8 Facebook inevitably copies us and comes to crush us.

9 Q Understood. And there was a tension
10 between that on the one hand versus trying to do this
11 responsibly, not even optically appearing like, you
12 know, scams you were seeing out there?

13 A Yes. We have the best vision of anybody in
14 the world, but we also took the most cautious approach
15 of anybody in the world. And if we could do those two
16 things, we think that would be the best possible option
17 of all the options.

18 Q Let me point you to what Fred subsequently
19 wrote. He writes on Item 2, if you see that --

20 A Uh-huh.

21 Q -- "We should not sell tokens to the,"
22 quote, "'crowd,'" end quote, "until we have implemented
23 Kin inside Kik and can show it working just like Kik
24 Points. We should show that we can settle off chain
25 and on chain before offering Kin to the crowd."

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1 Let me pause there. Can you -- first, do
2 you recall Fred proposing this?

3 A I do.

4 Q And did you discuss this proposal with
5 Fred?

6 A I don't recall specifically discussing it.
7 But I do recall me have similar thoughts, I believe, at
8 the time.

9 Q Is it fair to say Mr. Wilson wanted to slow
10 down the project until certain development milestones
11 were reached?

12 A I think what we're getting at here is we
13 had an evolving understanding of what exactly a utility
14 was and also what exactly -- how exactly compliance
15 would work in this space. And so at this time, I would
16 say it's not that he wanted to slow it down per se.

17 You know, he wanted to make sure we had the
18 right utility, as we all did. And this is what was our
19 understanding of what that utility might be at the
20 time.

21 Q Can you explain to me -- I think you said
22 you had an evolving understanding of utility at this
23 time.

24 A Uh-huh.

25 Q Can you explain that to me?

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1 A Yeah. I think when we looked at minimum
2 viable product, like I talked about earlier, there were
3 four factors; compliance, technology, product, and
4 timing. And so what are all of the options there? You
5 know, like anything, you start out, you sort of have
6 one option. And then as you work through, one of our
7 values is we look at all the options, we try to
8 generate all of the options on all those factors.

9 And so the option we ultimately went with
10 is different than what this initial option here has
11 proposed.

12 **Q Right. This isn't what you guys did?**

13 A Correct.

14 **Q And you couldn't settle -- in the event, in**
15 **September 2017, you couldn't settle off chain and off**
16 **chain?**

17 MR. MITCHELL: Off chain -- excuse me. Off
18 chain and on chain.

19 MR. LEASURE: Correct. I misread that.

20 THE WITNESS: So, for example, we do not do
21 off chain settling today. Why do we not do it?
22 Because then you get into money transmittal licensing
23 laws. So, for example, here, what he's proposing
24 turned out to be not viable from a compliance point
25 of view.

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1 BY MR. LEASURE:

2 **Q Did you implement Kin inside Kik and show**
3 **it working?**

4 A We did.

5 **Q Through sticker packs?**

6 A Yes.

7 **Q Any other way?**

8 A No.

9 **Q Okay. I'll take that back. I'm going to**
10 **show you a document previously marked as Exhibit --**
11 **well, first, this is referring to a board meeting**
12 **mid-June. Do you remember a board meeting in mid-June**
13 **discussing Kin?**

14 A Not specifically. There were many board
15 meetings going on at the time, so --

16 **Q I got you. I understand. Let me show you**
17 **a document and see if it refreshes anything. I'm**
18 **showing you a document previously marked as**
19 **Exhibit 181. Take a look at it and let me know when**
20 **you're ready. To help you, I think this is -- well,**
21 **this is a multi-page printout of an e-mail with an**
22 **attachment. I believe the attachment contains of the**
23 **text of -- that's in the e-mail.**

24 A Okay.

25 **Q It's -- Exhibit 181 is dated June 14th,**

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1 **2017, with the subject "Draft E-mail." It has the**
2 **Bates stamp KIK 113490.**

3 A Okay.

4 **Q Do you recognize this document?**

5 A I do not.

6 **Q Okay. Have you ever seen this document or**
7 **been forwarded this document?**

8 A I don't recall specifically seeing it
9 before.

10 **Q Okay. Have you had a chance to take a**
11 **look at it?**

12 A I have not.

13 **Q Okay.**

14 A So should I read through it?

15 **Q Yes, please.**

16 A All right.

17 **Q I'm showing you this in part to see if it**
18 **refreshes any recollections of a board meeting that is**
19 **either consistent or inconsistent of what's in here.**

20 **Let me start by asking: Did reading that**
21 **help refresh any recollections of a June 2017 board**
22 **meeting and discussions around it?**

23 A It did not.

24 **Q Rats.**

25 A I would tell you if it did. I -- like,

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1 there were many discussions going on at the time about
2 the exact structure and how we could make it work and,
3 you know, presale and different discounts they got. I
4 believe the discounts they ultimately got are different
5 than what's here, for example. So there was a lot of
6 discussions around this.

7 **Q Sure.**

8 A So I don't recall this specific discussion.

9 **Q Let me point to one of two things and see**
10 **if you can recall discussion, you know, generally at**
11 **this time of what people are saying.**

12 A Yeah.

13 **Q It starts, it says, "At the last board**
14 **meeting, before Fred and Jim had to drop off the call,**
15 **the proposed course of action suggested to ensure**
16 **minimum risk to the company and the board (in**
17 **recognition of the frothiness of the cryptocurrency**
18 **markets generated this time) was to conduct a**
19 **\$100 million presale and eliminate the public token**
20 **distribution event."**

21 **Let me pause there. Was that in**
22 **consideration, not -- just not doing a public**
23 **distribution even at all?**

24 A I don't recall it specifically being a
25 discussion. But I'm sure it was one of the options we

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1 would have looked at at the time, yeah.

2 **Q What did you think about that?**

3 A I thought it was a bad option.

4 **Q Why?**

5 A Because at this point -- I'm not sure about
6 this point specifically, but at this point or around
7 this point, it was clear through the presale
8 conversations that we were going to get the money, and
9 that this was no longer about the money. And so maybe
10 the lowest risk thing to do would be to only do a
11 presale.

12 But in doing that, you would eliminate the
13 option for the broader public to join the project on
14 day one. And for this project to succeed, this
15 ambition, this scope of vision, required as many people
16 as possible in as many countries as possible to become
17 stakeholders in the project in day one.

18 And so for me, this was no longer about the
19 money. This was about launching Kin with the most
20 momentum possible.

21 **Q All right. The next sentence there reads,**
22 **"The conversion of the SAFT rights into Kin would occur**
23 **at the time the Kin ecosystem was fully functional**
24 **versus at the time there was a minimal viable product."**

25 **Did you see that?**

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1 compliance point of view, from a product point of view,
2 from a technology point of view, and it allowed us to
3 establish our leadership sooner, get in market sooner,
4 build momentum sooner, then we should absolutely do it.

5 **Q Okay. Did Mr. Wilson have a different**
6 **view?**

7 A Not to my recollection.

8 **Q He didn't push -- okay. That's fine. Let**
9 **me point you to one other section. This is on the**
10 **second page, 113491.**

11 A Uh-huh.

12 **Q It writes, "We reached out to the lead**
13 **investor on the presale and talked about extending the**
14 **time before the company would conduct the TDE and**
15 **offered the reason why. And much to our surprise, the**
16 **proposed delay was viewed adversely and would impact**
17 **the lead investor's decision to participate in the**
18 **presale."**

19 A Uh-huh.

20 **Q Let me pause there. Do you recall this**
21 **outreach -- this outreach described here to a lead**
22 **investor?**

23 A Generally -- not specifically, but
24 generally, I am aware of it, yeah.

25 **Q Tell me what you're aware of.**

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1 A I do.

2 **Q Okay. On that topic, a discussion of, you**
3 **know, converting SAFT rights at a fully functional time**
4 **versus at a time when there's a minimum -- minimal**
5 **viable product, do you remember discussion about that?**

6 A Not specifically. When I look at this, you
7 know, what exactly the definition is of fully
8 functional versus minimum viable, like, to me, there
9 is -- minimum viable is where you start. To me,
10 there's the end vision, a currency used by billions of
11 people and thousands of applications. That's the end
12 vision. And then what is fully functional in between,
13 I'm not sure.

14 **Q Were you -- around this time, were you**
15 **suggesting to Mr. Wilson that Kin should go to market**
16 **with only limited utility as opposed to full utility?**

17 A I don't think I was suggesting that. I
18 think probably what I was suggesting is that we should
19 try to get in market as soon as possible to establish
20 leadership in this race.

21 **Q Okay. And if that means not having the**
22 **time to build out more things, that it was worth doing?**

23 A That -- if it meant that we would not be on
24 side from a compliance point of view, we absolutely
25 should not do it. But if we were on side from a

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1 A That what is written here is we were trying
2 to figure out the right option on all those different
3 factors of how to launch the ecosystem. One of the
4 options was to wait longer and, you know, build on
5 chain, off chain, which we later realized was not an
6 option from compliance. But it looks like it was one
7 of things being considered at the time.

8 And that when we -- it looks like here, I
9 didn't do the reach out. But it looks like here that
10 pushing back the launch of the ecosystem was viewed
11 adversely by this investor's decision to participate,
12 which to me, is not to my surprise at all.

13 **Q Why?**

14 A For the same reason that I wanted to get in
15 market as soon as possible is probably the same reason
16 they should want to get in market as soon as possible,
17 which is you have figured out one of the biggest --
18 what I believe will one day be viewed as the biggest
19 opportunities in human history. You are better
20 positioned than anybody to launch this and go after
21 that, but you have shared this with the world.

22 Whenever you have an opportunity that is
23 this big, there will no doubt at some point be
24 competition. And every day we delay is a day we give
25 to the competition to one day catch up.

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1 **Q Do you know who the lead investor is that's**
2 **being referred to here?**
3 A I don't know specifically. But if I had to
4 guess, I would say it's Pantera.
5 **Q Okay. I'll take that back. Thank you.**
6 MR. MITCHELL: Are you aware of anyone from
7 Kik reaching out to Pantera in the way described in
8 this e-mail?
9 THE WITNESS: I don't know specifically.
10 But it looks like somebody did reach out to them.
11 MR. MITCHELL: Any idea who?
12 THE WITNESS: I don't know who. But if I
13 had to guess, I would think it would be Peter or -- I
14 would think it would be Peter.
15 MR. MITCHELL: Peter Heinke?
16 THE WITNESS: Yes.
17 MR. MITCHELL: And if you wanted to know,
18 who could tell you who's being described here?
19 THE WITNESS: Where? I'm sorry.
20 MR. MITCHELL: This Exhibit 181, is there
21 somebody who could tell you who the lead investor
22 referenced here is?
23 THE WITNESS: I would guess Peter or Nancy
24 would be good people to ask.
25 MR. MITCHELL: Oh, Nancy Wojtas --

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1 THE WITNESS: Well, Nancy wrote this
2 e-mail. So I hope -- like, I wonder if -- is there is
3 a question in, like, is there a way to find out who's
4 being referenced here?
5 MR. MITCHELL: Yeah, that's what I was
6 asking.
7 THE WITNESS: I would -- have you asked
8 Nancy?
9 MR. MITCHELL: No.
10 THE WITNESS: Okay. Or have you asked
11 Peter? He's also on this e-mail.
12 BY MR. LEASURE:
13 **Q We'll take it back. Let me show you two**
14 **more around the time. And these are probably best**
15 **shown together. I'm handing you documents that have**
16 **previously been marked Exhibits 48 and 49. Take a look**
17 **at Exhibits 48 and 49 and let me know when you're**
18 **ready. I'll identify Exhibit 48 for the record.**
19 **It's June 26th, 2017 e-mail with an**
20 **attachment. It has a Bates stamp KIK 103324.**
21 **Exhibit 49, the June 28th e-mail with an attachment,**
22 **KIK 117728. Are you ready?**
23 A Ready.
24 **Q Do you recognize Exhibit -- let's start**
25 **with 48. Do you recognize this document?**

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1 A I haven't looked at it yet, but I can do
2 that.
3 **Q Please.**
4 A It looks like a board resolution.
5 **Q Okay. And it's dated June 20- -- well, the**
6 **e-mail attaching is dated June 26th. Do you see that?**
7 A Yep.
8 **Q Okay. Can I point you to the board**
9 **resolution on the page with Bates stamp ending 326?**
10 A Yep.
11 **Q There are several whereases.**
12 **Do you see that?**
13 A I do.
14 **Q Second whereas, "Whereas the corporation**
15 **proposes to offer for sale to the public an app coin**
16 **called Kin at such time as the Kin ecosystem is**
17 **functional."**
18 **Do you see that?**
19 A Yep.
20 **Q Following down that, there's a whereas**
21 **right above where it's redacted.**
22 A Yep.
23 **Q "Whereas the corporation proposes to raise**
24 **up to an additional \$50 million in a public token**
25 **distribution event once the Kin ecosystem is built**

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1 **out."**
2 **Do you see that?**
3 A I do.
4 **Q Okay. Do you recall a board meeting where**
5 **it was agreed upon to take those courses of action?**
6 A Not specifically. But I think it makes
7 sense, based on these notes.
8 **Q Okay. I want to show you then -- point you**
9 **to Exhibit 49 because the language looks different and**
10 **it's a few days later.**
11 A Okay.
12 **Q Okay. Exhibit 49, you see it's June 28th.**
13 **I guess that's two days later.**
14 A I do, yeah.
15 **Q Okay. If I can point you to the board**
16 **resolution, Exhibit 49. The second whereas states,**
17 **"Whereas the corporation proposes to offer for sale to**
18 **the public an app coin called Kik at such time as the**
19 **corporation can introduce the MVP defined below."**
20 **Do you see that?**
21 A Yep.
22 **Q And do you see that there's a "define"**
23 **below MVP?**
24 A Yep.
25 **Q Okay. My question is -- and I apologize**

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1 for the buildup on this. These appear to have
2 different languages for the -- for lack of a better
3 word, triggering or accompanying event for the public
4 sale?

5 A Yep.

6 Q And they're two days apart?

7 A Yep.

8 Q Is there anything you can do to help me
9 understand what's happening or why we see two different
10 board resolutions at this time?

11 A I don't have a specific recollection. But
12 if I were to offer you my best guess --

13 Q Please.

14 A -- it was a desire to be more specific
15 about when exactly we would do the public sale. You
16 know, in the first one, application -- where is it --
17 before the rollout of the Kin ecosystem could mean
18 anything. It's very unclear what exactly that means.
19 Whereas here, it's very specific about what it means.

20 Q Let me go to the first one. If I can point
21 you to the whereas above the redacted piece.

22 A Uh-huh.

23 Q It says the public token distribution event
24 will happen, quote, "once the Kin ecosystem is built
25 out."

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1 Q Why --

2 A I don't know -- which is that the term
3 "built out" is unspecific and it's unclear. You know,
4 one day, if we'd be looking back on this, what did we
5 mean by "built out"? Whereas in this version, we're
6 very specific about -- we've replaced built out with
7 the MVP, which is specifically described.

8 Q And was there a discussion about wanting to
9 have more specific language in the board resolution?
10 Anything ring a bell for you?

11 A Nothing specific rings a bell. But I do
12 know, like, in these, we want to be specific about
13 what's being approved.

14 Q Is there any debate -- or do you recall at
15 this time about what needed to be in place at the time
16 of the public sale?

17 A I do recall we were constantly evaluating
18 all the options on product, technology, compliance, and
19 timing.

20 MR. MITCHELL: So Exhibit 48, that's an
21 executed board resolution?

22 THE WITNESS: Yes.

23 MR. MITCHELL: The board members all --

24 THE WITNESS: Yeah.

25 MR. MITCHELL: -- approved it?

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1 A Uh-huh.

2 Q Do you see that?

3 A Yep.

4 Q Was the Kin ecosystem built out at the time
5 of the token distribution event?

6 A Depends on how you define "built out." I
7 think that was the problem with this document.

8 Q Was it functional?

9 A It was functional.

10 Q And you don't know if it was -- you don't
11 know if -- the term "built out" is too vague for you to
12 be able to say whether it was or wasn't built out in
13 September 2017?

14 A The term "built out" is very general and
15 could mean many number of things. Is Ethereum built
16 out today? I'm not sure because it's not working very
17 well, and people are talking about how to do Plasma.
18 So is Ethereum built out today? I don't know. It's
19 not very specific. It's hard to evaluate with that
20 terminology.

21 Q Okay. Let me just see if I understand
22 your -- what you -- what you recall. You don't -- you
23 don't know why there are board resolutions with
24 different language at this time?

25 A I have a hypothesis of why.

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1 THE WITNESS: Yep.

2 MR. MITCHELL: Do you remember anyone after
3 that point raising a concern with the resolution?

4 THE WITNESS: I don't recall.

5 MR. MITCHELL: You don't recall anybody?

6 THE WITNESS: Yeah. Obviously, at some
7 point, it got raised because it got changed, but I
8 don't recall why.

9 MR. MITCHELL: Do you know why the
10 second -- do you know why the second resolution was
11 circulated and then executed?

12 THE WITNESS: I do not recall.

13 MR. MITCHELL: Do you know who changed
14 the -- who drafted the language that's in Exhibit 49?

15 THE WITNESS: I do not. But my guess would
16 be Nancy, but I do not.

17 MR. MITCHELL: Why? Why do you guess it's
18 Nancy?

19 THE WITNESS: Because my understanding is
20 she drafts all of these resolutions.

21 MR. MITCHELL: But you don't remember -- I
22 just want to make sure I understand. You don't
23 remember anything about -- well, let me say it in a
24 positive way.

25 You don't remember anything about anyone

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1 raising concerns about Exhibit 48 that led to
2 Exhibit 49?

3 THE WITNESS: I do not.

4 MR. MITCHELL: Is there any other time that
5 you remember at Kik sort of having a board resolution
6 get executed, and then people going back and wanting to
7 edit it and make another version?

8 THE WITNESS: I do not.

9 BY MR. LEASURE:

10 **Q I'll take both of them back from you.**
11 **Thank you.**

12 **So in the public sale, Kik required people**
13 **to register?**

14 A Uh-huh.

15 **Q Is that right?**

16 A Yes.

17 **Q And it gathered information from them?**

18 A Yes.

19 **Q Do you remember what categories of**
20 **information they gathered?**

21 A I don't remember specifically. I know we
22 gathered passports for some people. I'm not sure. I
23 think we gathered social security numbers for some
24 people. Various different things.

25 **Q So name?**

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1 technology providers to help us with this process, but
2 I can't remember specifically.

3 **Q Yeah. And I take it -- I think for**
4 **compliance purposes, it was important that Kik do this**
5 **process and know who people were who were signing up to**
6 **buy Kin, right?**

7 A That was a -- one of the reasons, but not
8 the primary reason, in my point of view.

9 **Q What was the primary reason?**

10 A Compliance was a factor. This is a brand
11 new space. Many people were selling tokens with no
12 registration whatsoever. In fact, most were -- you
13 know, that was the path of least friction when selling
14 a token. And yet, we were one of the few that required
15 passport registration. Why?

16 Well, you know, we weren't sure how -- my
17 recollection is how AML laws would apply. So we said
18 it doesn't hurt certainly to get everybody to register
19 with their passports. That was sort of a nice side
20 benefit. The real reason we did this, from my point of
21 view, it was -- because it was the only way we could
22 guarantee a fair distribution of the public sale tokens
23 to everybody who wanted to join the project on day one.

24 **Q You were worried that some people might get**
25 **a disproportionate amount of Kin on day one?**

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1 A Yep.

2 **Q Age?**

3 A I believe so.

4 **Q Citizenship or passport?**

5 A I believe so, yeah.

6 **Q And people have to give a passport photo?**

7 A Like, everything on the passport, yeah.

8 **Q Yeah. Sure. Right. So I had to give a**
9 **passport photo; is that right?**

10 A Uh-huh. Yes. I believe a photo of their
11 passport and a photo of them.

12 **Q Okay. So you could see if it looked like**
13 **them?**

14 A Yes.

15 **Q And some people got -- not kicked, but**
16 **kicked -- not kicked out of the registration, but**
17 **people at Kik would ask for additional information or**
18 **different photos; is that right?**

19 A I'm not sure.

20 **Q Did Kik review the things that were**
21 **submitted by people?**

22 A Yes.

23 **Q Do I have it right, that Kik may have hired**
24 **a company to help them with this process?**

25 A I think we hired several different

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1 A Before the Kin token sale, to my
2 recollection, there was no token sale that had ever
3 been done like Kin before. Every token sale previously
4 traded off between one of two options. One is to do an
5 uncapped sale, so anybody who wants to participate can.

6 But then the amount you end up selling
7 those tokens for frequently becomes, from our point of
8 view, in my point of view, an irresponsible amount of
9 money. The other option is to cap the sale. But then
10 a couple of big people come in, take it all the way
11 from everybody else, and all the sort of, quote,
12 unquote, unsophisticated people on the technology side
13 don't have an ability to participate on day one because
14 it's all gone before they can get there.

15 **Q Got it.**

16 A And so the only way to have both a
17 responsible amount of money, from our point of view,
18 what was a responsible amount of money, and to
19 guarantee that everybody would be able to participate
20 was to make everybody register with their passports.

21 That was what would have allowed us to say
22 one allocation per one human being. And that was the
23 only way to do that.

24 **Q And you were comfortable with -- it sounds**
25 **like you went through a -- you. It sounds like Kik**

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1 went through a relatively significant diligence process
2 to ask people to affirm who they were?

3 A Yeah. It took a ton of work to set up that
4 process. We got a ton of passports. I personally
5 reviewed, I think, a couple of hundred passports, for
6 example. It was a ton of work to do it this way, but
7 we felt that that was worth it. Because it was the
8 only way, from our point of view, that we could provide
9 a fair token sale.

10 Q Got it. And you were comfortable with the
11 work that was done. Let me put it in a better way.

12 Enough work was done that you were
13 comfortable that people were who they said they were?

14 A Yes.

15 Q Okay. And that they -- their age, their
16 information was what they said it was?

17 A Yes.

18 Q Their country was where they said it was
19 from?

20 A Yes.

21 Q Okay. What can you tell me about the
22 average? There were 10,000 purchasers, I think,
23 roughly, of Kin in the public sale.

24 Is that in the ballpark?

25 A Uh-huh.

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1 to think that's correct, incorrect?

2 A I have no reason to think it's correct or
3 incorrect.

4 Q No reason either way?

5 A Yeah.

6 Q That wasn't something you looked at?

7 A Not that I recall.

8 Q Okay. How about -- I understand it sounds
9 like it was important for you that people -- that this
10 was a fair process where people could participate,
11 right?

12 A Uh-huh.

13 Q Did you look at the distribution of the
14 dollar value of Kin that people purchased?

15 A Not that I can recall. I can recall
16 hearing different dollar points, but I can't recall
17 specifically what those were. For example, how many
18 people bought a thousand dollars or less. I can't
19 recall what those numbers are, though.

20 Q Yeah. That's -- I'm asking -- let me ask
21 it more impressionistically. Are you able to say
22 whether a lot of Kin was purchased by a lot of small
23 holders, or it was lumpy and a few people purchased a
24 significant dollar value of Kin?

25 Are you able to say impressionistically

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1 Q Okay. Why don't you tell me about -- did
2 you look at average demographics, average age, country?

3 Was that data something you looked at?

4 A I think we had data on all those different
5 things. I don't recall looking at any specific data.

6 Q That wasn't something you were interested
7 in?

8 A I think we were interested in countries. I
9 don't recall what the data was there. I'm sure we were
10 interested in other things, but I don't recall anything
11 specific.

12 Q Can you ballpark what percentage of -- by
13 dollar amount, if possible, what percentage of dollar
14 value of Kin was purchased by people in the U.S. versus
15 other countries?

16 A I don't recall. But if I had to guess, I
17 would say something like 30 percent maybe. But maybe
18 it's more. I can't recall.

19 Q How about age? Do you know the average age
20 of a Kin purchaser?

21 A I do not.

22 Q If I was to represent to you we saw an
23 average age of around 35 --

24 A Okay.

25 Q -- does that sound -- do you have a reason

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1 either way?

2 A I cannot. But I can say that, like, sort
3 of the first step of the token sale evenly split all
4 the tokens that were available by all the people they
5 had registered so that everybody had a fair opportunity
6 to purchase tokens up to an equal cap.

7 Q Okay.

8 A So, like, in that first phase, everybody
9 would be able to at most get, I believe it was
10 somewhere around \$6,000 worth of Kin.

11 Q And then there was a second phase where
12 people could get more?

13 A Yes.

14 Q Okay. I'll tell you, I had seen in the
15 data. There are some people who bought a million
16 dollars worth of Kin.

17 Does that -- does that sound right to you?

18 A Could be, yeah.

19 Q Okay. That wouldn't surprise you if that
20 were --

21 A No, that wouldn't surprise me.

22 Q Okay. How about you -- prior to the Kin
23 project, you had been the CEO of a company running a
24 messaging app, right?

25 A Correct.

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1 Q And we've talked about the people -- anyone
2 around the world can use the Kik messaging app.
3 A Yep.
4 Q But we've talked about sort of who the
5 audience was for that app and how it changed over time.
6 A Uh-huh.
7 Q Do you have data or do you have a sense of
8 what the overlap is between the people who bought Kin
9 in the public sale versus people who use the Kik
10 messaging app?
11 A I do not.
12 Q Do you know -- so you don't know if it's
13 almost all Kik users, if it's almost not any Kik users
14 who bought Kin? You don't know either way?
15 A I do not.
16 Q How old did you have to be to buy Kin?
17 A I can't recall.
18 Q 18, 21?
19 A Maybe 18. I can't recall.
20 Q And is that still the -- can a 14-year-old
21 now hold -- own Kin?
22 A Kin is a cryptocurrency. And so like any
23 cryptocurrency, once you own it, you get to decide what
24 to do with it.
25 Q So yes, I guess?

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1 A Probably. Yes.
2 Q Okay. Yeah. We see an analysis performed
3 on behalf of Kik by a company called Sylvain Labs,
4 S-y-l-v-a-i-n.
5 A Uh-huh.
6 Q Does that ring a bell for you?
7 A Yep.
8 Q What was their -- what were they asked to
9 do in connection with Kin?
10 A I think they were asked to create a
11 proposal for what the brand of Kik could become to turn
12 around growth of the chat app.
13 Q Did it have anything to do with Kin?
14 A Sylvain was also involved with Kin, so
15 there was -- maybe you're referring to something else
16 that I'm thinking of.
17 Q Yeah. I see them doing like a wallet study
18 and things like that, that seem relevant to Kin the
19 project. Does any of that ring a bell?
20 A Got it. No, that doesn't ring a bell.
21 Q Is that something -- who -- was that
22 something --
23 A Probably Erin and Hayeon would work with
24 Sylvain on -- like, they're the ones who worked with
25 Sylvain on everything.

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1 Q Okay. We've seen the use cases in the
2 white paper.
3 A Uh-huh.
4 Q Was there any market analysis done prior to
5 the public sale about how people might want to actually
6 use Kin in the future?
7 A I think -- I don't know exactly what
8 analysis was done. I think some of it came from the
9 experience with Kik Points. Some of it probably could
10 have come from analysis of the market. Some of it
11 could have just been, you know, innovative thinking and
12 ideas. It could have come from any number of places.
13 Q Yeah. And we've talked about a lot of that
14 today. We've seen -- we talked about -- or yesterday.
15 We've talked about Kik Points in your experience, and
16 we talked about CoinFund market analysis.
17 I'm trying to see if there was anything
18 else done to see, okay, how is Kin -- how might Kin be
19 used in the future that you can think of.
20 A I'm sorry. What's the question?
21 Q The question is: Was there anything other
22 than Kik Points experience, CoinFund's analysis, that
23 you recall being done to study how might people use Kin
24 in the future?
25 A Maybe -- I guess I'm not -- like, what were

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1 the use cases we put in the white paper? That was not
2 meant to be an exhaustive list of all the ways that Kin
3 would ever be used.
4 Q Let's go off the use cases. I'm trying to
5 see if Kik commissioned or did itself any studies about
6 using Kin.
7 A I can't recall.
8 Q Okay. Okay. Let's --
9 MR. MITCHELL: Can I just ask a follow-up
10 on the identity process? Earlier, you talked about the
11 process that Kik used to sort of verify identify of the
12 people who registered for the sale.
13 Do you recall that?
14 THE WITNESS: Uh-huh. Yep.
15 MR. MITCHELL: Did Kik use -- sorry. Were
16 there -- were there some countries that Kik was not
17 willing to sell Kin into?
18 THE WITNESS: Yes.
19 MR. MITCHELL: For example, what?
20 THE WITNESS: China and Canada.
21 MR. MITCHELL: All right. And did Kik rely
22 on that process, that client identification process, in
23 deciding whether or not to sell to people because it
24 thought they were in China or Canada?
25 THE WITNESS: Yes.

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1 MR. MITCHELL: As part of the registration
2 process, did Kik ask any questions to people who were
3 registering about what assets they held?
4 THE WITNESS: I can't recall. Like, what
5 assets, like, what dollars, or what do you mean?
6 MR. MITCHELL: Yeah. How much -- what
7 assets they held.
8 THE WITNESS: Not to my recollection.
9 MR. MITCHELL: Did Kik take any steps to
10 verify, you know, how much money or how much assets the
11 people who were registering for the public sale held in
12 deciding whether it was willing to sell to them?
13 THE WITNESS: Not to my recollection.
14 MR. LEASURE: Off the record.
15 THE VIDEOGRAPHER: Going off the record.
16 The time is now 3:11 p.m.
17 (A brief recess was taken.)
18 THE VIDEOGRAPHER: We are back on the
19 record. The time is 3:18 p.m.
20 BY MR. LEASURE:
21 **Q We're back on the record after a brief**
22 **break during which, Mr. Livingston, did you have any**
23 **substantive conversations about this investigation with**
24 **SEC staff?**
25 A I did not.

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1 **Q Okay. I want to reiterate for the nth**
2 **time --**
3 A Okay.
4 **Q -- that I don't want you to tell me about**
5 **conversations you had with a lawyer.**
6 MR. LEASURE: I'm going to -- as I said I
7 would yesterday prior to going on the record, I'm going
8 to alert counsel that this area of questioning might
9 intrude upon -- or at least answers he might give might
10 involve the attorney-client privilege. So pay
11 attention. And we obviously welcome you asserting
12 privilege here.
13 BY MR. LEASURE:
14 **Q We've seen references in documents to**
15 **securities laws and even a case called Howey.**
16 A Uh-huh.
17 **Q Are you -- have you -- prior to the public**
18 **sale of Kin tokens, had you heard of a case called**
19 **Howey or the Howey test?**
20 A I can't recall the first time I heard about
21 the Howey test or a Howey case, but I certainly have
22 heard of it today.
23 **Q You certainly have heard of it --**
24 A Heard of it today.
25 **Q As of today?**

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1 A As of today, I have heard of it, yes.
2 **Q You don't know if you had heard of it prior**
3 **to the Kin sale?**
4 A I don't know if I heard of it before the
5 public sale or after the public sale. I don't recall.
6 **Q Okay. Do you know how you came to hear of**
7 **it?**
8 A I don't recall.
9 **Q Okay. Prior to the public sale, did you**
10 **believe that the sale of Kin tokens to U.S. purchasers**
11 **without registering that sale with the SEC was legal?**
12 A Sorry. Say that one more time.
13 **Q Sure. Kin -- let me -- let me break it up.**
14 **That might make it easier.**
15 A Okay.
16 **Q Kin sold Kin tokens to the -- to the**
17 **public, right?**
18 A Yes.
19 **Q In 2017. And that included the public in**
20 **the U.S., correct?**
21 A Correct.
22 **Q And it did so without registering that**
23 **offering and sale with the U.S. Securities and Exchange**
24 **Commission?**
25 A Correct.

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1 **Q Okay. Did you believe that was legal?**
2 A Yes.
3 **Q Why did you believe that?**
4 A Based on advice from -- well, I had
5 conversations with --
6 MR. GIBBS: That's fine.
7 THE WITNESS: How do I say that?
8 MR. GIBBS: It's --
9 THE WITNESS: What am I saying again when
10 it's attorney-client privilege?
11 MR. GIBBS: What you need to not do is
12 disclose the content of a communication between
13 yourself and the lawyers.
14 THE WITNESS: Okay.
15 MR. GIBBS: If you can answer the question
16 without revealing the content of the communication,
17 then go ahead.
18 THE WITNESS: So I can say I was having
19 discussions with counsel? Okay.
20 MR. LEASURE: And you're asserting
21 privilege over that?
22 MR. GIBBS: Over the content of those
23 discussions, yes.
24 BY MR. LEASURE:
25 **Q Okay. Which counsel?**

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1 A Cooley's.
 2 **Q Anyone else?**
 3 A I can't recall who beyond Cooley's.
 4 **Q And this was prior to the public sale?**
 5 A This is prior, yes.
 6 **Q Okay. So would you agree that you were**
 7 **aware of potential securities laws issues relating to**
 8 **Kin when planning the Kin token sale?**
 9 A Yes.
 10 **Q And you consulted with counsel about those**
 11 **issues?**
 12 A Yes.
 13 **Q Okay. And did Kin decide not to sell Kin**
 14 **tokens to people in certain countries --**
 15 A Uh-huh.
 16 **Q -- because of concerns over those**
 17 **countries' securities laws?**
 18 A I think we decided to not sell in
 19 countries, Canada and China, after having discussions
 20 with counsel.
 21 **Q Okay. Let me try this: Why did Kin not**
 22 **sell -- why did Kik not sell Kin to Canadian**
 23 **purchasers?**
 24 A I think I put it publicly on the internet
 25 why. From my point of view -- we met with the OSC.

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1 From my point of view, they wouldn't say definitively
 2 one way or the other what was or was not a security
 3 when it came to cryptocurrencies. From my point of
 4 view, they still haven't said that publicly.
 5 And because of that, I was not willing to
 6 take the risk in Canada. And as my home country, I
 7 felt that this was -- that's where we had discussions
 8 because that's the country we were in. And I was
 9 disappointed with their lack of what I viewed as would
 10 be clear guidance. And so I said, you know what, we'll
 11 just exclude all of Canada.
 12 MR. MITCHELL: Were there any other
 13 countries that you thought didn't give clear guidance?
 14 THE WITNESS: I thought no country gave
 15 clear guidance.
 16 MR. MITCHELL: Were there any other
 17 countries you excluded because they hadn't given clear
 18 guidance, other than Canada?
 19 THE WITNESS: We only had conversations in
 20 Canada, to my knowledge, with securities people. So I
 21 think back then, nobody had given clear guidance. But
 22 with Canada, it was different because we had had a
 23 conversation. And based on that conversation, and then
 24 we had discussions with counsel. We also had
 25 discussions with counsel, we ultimately decided not to

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1 sell to Canadians.
 2 MR. MITCHELL: Why did you only have
 3 discussions with Canada, with regulators in Canada?
 4 THE WITNESS: We had registrations, I
 5 believe, from 130 countries. So having conversations
 6 with everybody would be a difficult thing to do. We
 7 also had discussions with counsel on this topic.
 8 MR. MITCHELL: You had discussions with
 9 counsel on the topic of who to talk to?
 10 THE WITNESS: Correct.
 11 MR. MITCHELL: Did you -- other than --
 12 sorry. Other than Canadian law and U.S. law, did Kik
 13 analyze the Kin token sales to see whether the
 14 securities laws of other countries -- any other
 15 countries would apply to the sale?
 16 THE WITNESS: I don't recall. I don't
 17 recall if we did or did not look at countries beyond
 18 Canada and U.S.
 19 MR. SCHLEGELMILCH: Where were the largest
 20 number of Kin purchasers located?
 21 THE WITNESS: I do not know. That data
 22 could be found.
 23 BY MR. LEASURE:
 24 **Q Can we -- let's drill down a bit into what**
 25 **happened with the Ontario Securities Commission, the**

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1 **OSC.**
 2 A Sure.
 3 **Q First, it sounds like there was a physical**
 4 **meeting at the OSC.**
 5 A Yep.
 6 **Q Did you go to that?**
 7 A I did.
 8 **Q Okay. How did -- what was the genesis of**
 9 **that meeting? How did the idea for the meeting come**
 10 **up? Who approached who?**
 11 A My recollection is that Peter, our CFO,
 12 heard through sort of a friend of a friend sort of
 13 thing that the OSC, he was unsure of us -- the idea of
 14 us selling tokens. And so my recollection is that he
 15 recommended we go see them and talk to them.
 16 **Q Do you have any more detail about what the**
 17 **friend of the friend said to Peter about the OSC or its**
 18 **concerns?**
 19 A Just that they -- I seem to recall the word
 20 "unhappy" being used, but -- unhappy about us selling
 21 tokens. But I can't recall specifically.
 22 **Q And it was specifically about Kik selling**
 23 **tokens?**
 24 A Yes.
 25 **Q Why?**

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1 A I can't -- I don't know.
 2 **Q Okay.**
 3 A It was just, "Hey, a friend of a friend who
 4 knows the OSC," I seem to recall the word used,
 5 "unhappy," but I can't recall specifically, "We should
 6 go see them."
 7 **Q And you did?**
 8 A And we did.
 9 **Q Who went from your side?**
 10 A I believe myself and Peter. We might have
 11 had a lawyer with us, but I cannot recall.
 12 **Q Do you know -- you don't remember if you**
 13 **did or didn't bring a lawyer with you?**
 14 A It seems like we would have, but I don't
 15 recall if we did or did not.
 16 **Q Tell me about the meeting itself then.**
 17 **What happened?**
 18 A It was a while ago. I can't recall
 19 specifically. What I seem to understand -- what I
 20 seemed to recall is that I explained the vision for
 21 Kin, why we were doing it, as I have done today. I
 22 seem to recall explaining sort of the fundamentals of
 23 crypto economics and how all this works and why it
 24 could be -- actually be a solution to the problems we
 25 were facing -- we and most consumer companies were

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1 facing.
 2 I seem to recall them not saying one way or
 3 the other whether they would be supportive or not
 4 supportive of us doing that.
 5 **Q What did they say?**
 6 A I can't recall. I seem to recall them
 7 largely just being in listing mode.
 8 **Q Was there a -- sometimes a meeting ends**
 9 **with a next steps or what will happen after that.**
 10 A Uh-huh.
 11 **Q Did the meeting end with next steps in mind**
 12 **or something else expected to happen?**
 13 A I don't recall having any clear next steps
 14 at the end of the meeting.
 15 **Q So at that point, roughly, can you --**
 16 **roughly, can you tell me when that meeting was?**
 17 A I cannot.
 18 **Q It was before the public sale, I take it?**
 19 A Yes.
 20 **Q Okay. What happened after that?**
 21 A I don't know specifically. I just know it
 22 got to the point where we decided, based on where -- we
 23 had conversations with counsel, and then later decided,
 24 you know what, let's just exclude Canada.
 25 **Q And was that just purely the result of that**

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1 **meeting?**
 2 A My recollection is, no, it wasn't purely a
 3 result of that meeting. It was part of ongoing
 4 discussions with them, but I can't say for sure.
 5 **Q With "them," being OSC?**
 6 A Yes.
 7 **Q So is it possible that your counsel had**
 8 **further interactions with OSC on the topic of Kin?**
 9 A Yes.
 10 **Q Okay. Let me --**
 11 A It's definitely possible, yeah.
 12 **Q Do you know if they did?**
 13 A I seem to recall that they did, yes.
 14 **Q Okay. And what can you tell me about how**
 15 **it went?**
 16 MR. GIBBS: You're asking about the later
 17 interactions just between the lawyer and the OSC?
 18 MR. LEASURE: Yes.
 19 MR. GIBBS: Okay. Don't relay the content
 20 of any communication from the lawyers to you about
 21 those interactions. We're asserting privilege over the
 22 communication by the lawyer to the client about the
 23 lawyer's interactions with the regulators.
 24 THE WITNESS: I only heard about
 25 interactions with the OSC, from my recollection, since

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1 then through the lawyer.
 2 MR. GIBBS: So I'll instruct you not to
 3 answer.
 4 MR. LEASURE: Okay.
 5
 6 BY MR. LEASURE:
 7 **Q I'm going to show you a document previously**
 8 **marked Exhibit 186. This is a multi-page document.**
 9 **It's a letter with a large attachment. I'm going to**
 10 **just be pointing you to the letter, if this helps you.**
 11 A Okay.
 12 **Q Exhibit 186 is a letter with attachments**
 13 **dated November 2nd, 2017. It appears to be from the**
 14 **Blakes law firm to the OSC. It has the Bates stamp SEC**
 15 **OSCE 5.**
 16 A Uh-huh.
 17 **Q Have you seen this letter before?**
 18 A I saw it last week.
 19 **Q Okay. You didn't see it at the time,**
 20 **November 2nd?**
 21 A Not that I recalled at least as of last
 22 week.
 23 **Q Sure. So you don't remember whether or not**
 24 **you reviewed it in advance to it being sent?**
 25 A No.

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1 **Q Who is Blakes?**
2 A I believe they're a law firm in Canada.
3 **Q Okay. And -- well, were they Kik's law**
4 **firm?**
5 A I believe so, yes.
6 **Q And did they represent Kik in connection**
7 **with the Kin offering?**
8 A I believe so, yes.
9 **Q It sounds like they weren't your primary.**
10 **It sounds like that was Cooley.**
11 A Correct.
12 **Q Okay. Got it. Let me just read a few**
13 **lines and see if it jogs any recollection, if there's**
14 **anything you can say.**
15 A Uh-huh.
16 **Q After the first paragraph, the letter**
17 **reads, "We acknowledge your expression of OSC staff's**
18 **current position that the ITD constituted an offering**
19 **of securities."**
20 **And do you see that the ITD is a defined**
21 **term relating to the sale of Kin?**
22 A Yep.
23 **Q Okay. When did you come to -- well, first,**
24 **did you ever come to understand yourself the OSC's**
25 **position on whether Kin sales were sales of securities?**

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1 A I did not recall having definitive guidance
2 any time before the token sale that they were saying
3 for sure that they believed this was an offering of
4 securities.
5 **Q Okay. Right. The letter continues, "We**
6 **continue to disagree with that characterization,**
7 **although, that is not the focus of this response. I**
8 **do, however, wish to correct the record where you**
9 **indicated that OSC staff's position had been**
10 **communicated to me in the meeting on August 14th and**
11 **discussions on August 21st. Those statements are not**
12 **entirely accurate nor fair to myself or Kik."**
13 **Now, the letter continues, but I just want**
14 **to look at those dates.**
15 A Uh-huh.
16 **Q Were those meetings that are referred to**
17 **here meetings that you were -- that you were describing**
18 **earlier, that you were present at?**
19 A I was present at one meeting with the OSC
20 in person. I'm not sure which of these two or if
21 either of these two were that meeting.
22 **Q Okay. And your recollection is you didn't**
23 **leave that meeting with a clear impression from the OSC**
24 **about whether they thought Kin sales were sales of**
25 **securities, right?**

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1 A Correct.
2 **Q And I'll just represent to you it appears**
3 **that this letter from your lawyers to the OSC says the**
4 **same thing, that it wasn't clear.**
5 A Yep.
6 **Q Okay. And then, just going on, it says,**
7 **"In fact, the first time that the OSC staff**
8 **definitively communicated the position that the ITD**
9 **constituted an offering of securities was in the**
10 **telephone call to me from Ms. Chaoukos," C-h-a-u-k-o-s,**
11 **"on September 5, shortly before the scheduled launch**
12 **date."**
13 **Did you see where I read that?**
14 A No. Sorry. Where?
15 **Q Second-to-last paragraph.**
16 A On the first page?
17 **Q Correct.**
18 A Okay. Okay.
19 **Q Okay. What can you tell me about the**
20 **communication referred to here on September 5?**
21 A I don't recall hearing about this
22 communication.
23 **Q So prior to the token distribution event,**
24 **if I can call it that, did you ever hear that OSC staff**
25 **had definitively communicated a position that the sale**

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1 **constituted an offering of securities?**
2 A Not that I recall.
3 **Q Did anyone -- well, you didn't hear that.**
4 **Do you know if anyone at Kik knew that?**
5 A I -- how could I know that? I don't recall
6 hearing that from anybody.
7 **Q Okay. You don't recall hearing that from**
8 **anybody. Had you known that, do you think your**
9 **approach to the public sale would have changed?**
10 A I don't think so.
11 **Q You would have proceeded with not selling**
12 **in Canada or China, but selling in other countries?**
13 A Yes.
14 **Q Okay. Are you aware of any distinctions**
15 **between how Canadian law and U.S. law treats the**
16 **definition of securities?**
17 A I'm not aware.
18 **Q Okay. So if something is a security under**
19 **Canadian law, are you aware of any reason why it**
20 **wouldn't be a security under U.S. law?**
21 A I'm not aware of any reason why it would or
22 would not be.
23 **Q This is just something you don't know**
24 **about?**
25 A Right.

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1 **Q Okay. Kik didn't register the offering and**
2 **sale with Kin with the U.S. SEC prior to the public**
3 **sale, correct?**

4 A Correct.

5 **Q Did Kik reach out to the SEC prior to the**
6 **public sale?**

7 A Not to my knowledge.

8 **Q Why not?**

9 MR. GIBBS: Same privileged instruction.

10 If you can answer the question without
11 revealing the content of attorney-client
12 communications, do. If not, don't.

13 THE WITNESS: I cannot.

14 BY MR. LEASURE:

15 **Q I'm sorry. I just want to clear up an**
16 **ambiguity. Is --**

17 A Why we did not approach the SEC, I feel
18 like I cannot reveal.

19 **Q You can't answer the question without**
20 **revealing privileged communications?**

21 A Correct.

22 MR. LEASURE: And you're instructing him
23 not to answer on that basis?

24 MR. GIBBS: I am indeed.

25 MR. LEASURE: Great. Just to clarify the

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1 MR. LEASURE: Great.

2 MR. SCHLEGELMILCH: Mr. Livingston, the
3 Blakes firm, that's Kik's law firm, correct?

4 THE WITNESS: I believe so, yes.

5 MR. SCHLEGELMILCH: Okay. If you look at
6 the letter, there's an appendix that begins on SEC
7 OSCE, and 13 is the last number.

8 THE WITNESS: Okay.

9 MR. SCHLEGELMILCH: And this appears to be
10 information that the Blakes firm provided to the OSC on
11 Kik's behalf.

12 THE WITNESS: Okay.

13 MR. SCHLEGELMILCH: Is that -- that's how
14 you read this as well?

15 THE WITNESS: I think what this is, is of
16 all the people that had registered so far -- I'm not
17 sure if this was pre-token sale or post-token sale.

18 MR. SCHLEGELMILCH: Well, the letter is
19 dated November 2nd, 2017, correct?

20 THE WITNESS: Correct.

21 MR. SCHLEGELMILCH: Okay. And so whether
22 this data is before the token sale or after the token
23 sale, you'll agree with me, will you not, that the
24 lion's share of the participants in the Kin ITD are in
25 the United States?

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1 record.

2 MR. GIBBS: Yeah.

3 BY MR. LEASURE:

4 **Q Okay. I'm sorry. Just because I don't**
5 **fully remember if we covered the waterfront here.**
6 **There was discussion about whether or not**
7 **to reach out to the U.S. SEC in advance of the Kin**
8 **sale?**

9 MR. GIBBS: You can go ahead and answer
10 that. I --

11 THE WITNESS: Yes.

12 MR. GIBBS: Because it's the subject of the
13 communication.

14 THE WITNESS: Yes.

15 BY MR. LEASURE:

16 **Q And were to ask you the contents of that,**
17 **that would -- well, can you tell me the contents of**
18 **that communication?**

19 A I cannot.

20 **Q Because of attorney-client privilege?**

21 A I cannot because of attorney-client
22 privilege.

23 MR. LEASURE: And you're instructing him
24 not to provide that information?

25 MR. GIBBS: I am indeed.

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1 THE WITNESS: I don't know about the term
2 "lion's share."

3 MR. SCHLEGELMILCH: Okay. Fair enough.
4 Let's use numbers. 3,500 of them.

5 THE WITNESS: Okay.

6 MR. SCHLEGELMILCH: Is that right?

7 THE WITNESS: That's what it says.

8 MR. SCHLEGELMILCH: Is that consistent with
9 your understanding?

10 THE WITNESS: I'm not sure if this is
11 registration or the people who actually ended up
12 purchasing. But if it -- let's assume for a second it
13 is the people that actually ended up purchasing, what I
14 would want to know is what the total count is and what
15 the participation amount is, to answer your question.

16 MR. SCHLEGELMILCH: Well, it says the total
17 participation amount is \$16 million, U.S. dollars.

18 THE WITNESS: Yes. But we'd have to add up
19 that entire column to figure out what percentage --

20 MR. SCHLEGELMILCH: I understand.

21 THE WITNESS: -- the United States was.

22 MR. MITCHELL: Roughly how much -- roughly
23 how many -- roughly how much did all of the people in
24 the public sale pay to Kik for Kin tokens?

25 THE WITNESS: I believe it was \$48 million.

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1 MR. MITCHELL: Okay.

2 THE WITNESS: So it looks like roughly a

3 third.

4 (Simultaneous speakers.)

5 MR. MITCHELL: And roughly how many people

6 purchased Kin tokens in the public sale?

7 THE WITNESS: 10,000.

8 MR. SCHLEGELMILCH: Okay. So --

9 THE WITNESS: Roughly a third.

10 MR. SCHLEGELMILCH: Okay. That's what I'm

11 getting at. And the next highest country by

12 participant is the United Kingdom, which only has 758?

13 THE WITNESS: Correct.

14 MR. SCHLEGELMILCH: Okay. That's all I

15 have.

16 BY MR. LEASURE:

17 **Q I'll take that back from you. Thank you.**

18 MR. MITCHELL: Just one more question.

19 Blakes sent Exhibit 186 to the OSC for Kik,

20 on Kik's behalf?

21 THE WITNESS: Sent this?

22 MR. MITCHELL: The letter. The letter

23 that's Exhibit 186.

24 THE WITNESS: I would assume so, but I'm

25 not sure.

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1 MR. SCHLEGELMILCH: Well, the first

2 sentence of the letter is, "I write on Kik's behalf,"

3 correct?

4 THE WITNESS: Yes.

5 MR. SCHLEGELMILCH: Okay.

6 THE WITNESS: I don't recall seeing this

7 letter.

8 BY MR. LEASURE:

9 **Q At this time, did -- was -- Blakes was**

10 **Kik's law firm, right?**

11 A Right.

12 **Q Did they have a point person within Kik who**

13 **dealt with Blakes?**

14 A I'm not sure. I'm not sure if they would,

15 for example, work with Peter. It might have been, or

16 they might have worked with Nancy who worked with

17 Peter. I'm not sure.

18 **Q Was -- I can't remember when Eileen came on**

19 **board for Kik. Had she came on board at this point?**

20 A I can't remember when exactly she came on

21 board.

22 **Q Okay.**

23 A But I think it was before November 2nd.

24 **Q Okay. So it sounds like you didn't -- you**

25 **don't recall reviewing this letter, right?**

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1 A No.

2 **Q But it's possible that Peter, Eileen, if**

3 **she was there, maybe Nancy, somebody on -- working for**

4 **Kik may have?**

5 A Yes.

6 **Q Okay. And you would expect if someone did,**

7 **it might be one of those people?**

8 A Yes.

9 **Q Okay. Thanks. I'll take it back.**

10 A No problem.

11 **Q In the -- I want to ask a few sort of basic**

12 **structural questions about the private and public sale.**

13 A Sure.

14 **Q Kik raised dollars from the private sale,**

15 **right?**

16 A Correct.

17 **Q Where did it put those dollars?**

18 A Where did it put those dollars? Into a

19 bank account?

20 **Q Do you know where?**

21 A I do not recall where.

22 **Q That's fine. And were they -- were all of**

23 **the dollars put into one bank account?**

24 A I don't know.

25 **Q Were they -- do you know if a separate**

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1 **account was -- if the proceeds were segregated into**

2 **different accounts by each unique purchaser?**

3 A I do not know.

4 **Q Okay. You don't know either way?**

5 A No, not that I recall.

6 **Q Would you expect them to be segregated by**

7 **Purchaser 1, Purchaser 2, Purchaser 3?**

8 A No.

9 **Q Would you expect them to be pooled**

10 **together?**

11 A I would expect them to be put into a bank

12 account. I'm not sure if that would be separate bank

13 accounts or one bank account. I'm not sure.

14 **Q You don't know either way?**

15 A Right.

16 **Q Who owned -- who controlled those -- that**

17 **bank account or bank accounts after the private sale?**

18 A Kik Interactive, Inc., the company.

19 **Q Okay. Sure. So let's say a private sale**

20 **purchaser -- and let me back up a bit. And Kik, I**

21 **think you've testified earlier, used that money in part**

22 **for the Kin project and part to fund Kik into Kik's**

23 **messenger app business; is that right?**

24 A Yes.

25 **Q So Kik directed how that money would be**

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1 spent?
 2 A Correct.
 3 Q Okay. Let's say I'm a private sale
 4 purchaser and I wanted to direct how my money -- the
 5 portion of that -- of my contribution that's in that
 6 bank account would be directed or spent.
 7 Could I do so?
 8 A You could try to influence it, I guess, but
 9 not -- like, at the end of the day, the final decision
 10 was ours. Yes.
 11 Q Sure. I could influence it by calling you
 12 up and saying, "Hey, Ted, I'd like you to do this"?
 13 A Yeah. "Have you thought about," or
 14 whatever, yeah.
 15 Q Right. But I couldn't directly control the
 16 money in that account?
 17 A Correct.
 18 Q Okay. Same questions for the public sale.
 19 They paid Ether, right?
 20 A They paid Ether to buy Kin, correct.
 21 Q Better way of putting it. Thank you.
 22 And Kik exchanged the majority of that
 23 Ether as -- into dollars at some point?
 24 A We sold Ether for dollars over time, yes.
 25 I believe we still have some of that Ether.

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1 Q Okay. So it has both -- the proceeds of
 2 that are both some Ether, some dollars?
 3 A Yes.
 4 Q And did -- has it pooled that -- let's say
 5 the Ether, is it held in one wallet?
 6 A I'm not sure.
 7 Q Is it held in separate wallets, segregated?
 8 A I don't know how it's held.
 9 Q Okay. Is it held in -- do you know if
 10 there is 10,000 wallets for each Kin purchaser's
 11 contribution?
 12 A That feels like it would be impractical,
 13 but not impossible. I don't know.
 14 Q You don't know?
 15 A We could find out. Yeah.
 16 Q It would be more practical to put it in one
 17 wallet, would you agree with that?
 18 A I don't know. Yeah, I guess so. Sure.
 19 Q Okay.
 20 MR. GIBBS: Jeff, I don't mean to
 21 interrupt, but can I just make a request, please?
 22 We're really late in the second day. People have
 23 flights to make. And you've just spent ten minutes
 24 asking him a bunch of questions about facts you already
 25 know that are undisputed and where he has no unique

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1 knowledge. I just -- please, if you're going to keep
 2 us here, focus on things that you actually need to ask
 3 him as opposed to things you already know, please.
 4 BY MR. LEASURE:
 5 Q Who controlled the Kik -- the public sale
 6 proceeds after the public sale?
 7 A The revenue from the public sale, who
 8 controlled that revenue?
 9 Q Yeah.
 10 A Kik.
 11 Q Okay. So if I'm a Kin purchaser and I
 12 said, "Hey, I'd like you to spend this on XYZ," that
 13 wasn't my right to direct how that money would be
 14 spent?
 15 A Correct.
 16 Q And would you say Kik pooled the proceeds
 17 from the public sale?
 18 A I would say best of my knowledge, the way
 19 the smart contract worked, is you send Ether to the
 20 smart contract. The smart contract sent Kin to you.
 21 And then that Ether came to us. I'm not sure if that
 22 was in one wallet or many wallets, but certainly came
 23 under our control, yes.
 24 Q Got it. Kin created -- sorry.
 25 As part of the Kin project, Kik created 10

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1 trillion Kin tokens; is that right?
 2 A Correct.
 3 Q Okay. Were each of them equal?
 4 A Yes.
 5 Q Did any -- none of them had, like, special
 6 or additional value?
 7 A No.
 8 Q If the value of one of them went up in the
 9 market, would you expect the value of all the others to
 10 go up by the same amount?
 11 A What is the value? The value is --
 12 Q Let's say --
 13 A I'm just going to answer. Like, there's
 14 no, like, magical thing that makes one worth the same
 15 as all the others at any point. It's -- you know, all
 16 Kin are created equal. And so if somebody says, "I
 17 want to buy Kin and I'm willing to pay this price,"
 18 then, you know, maybe somebody says, "Okay. I'll sell
 19 you my Kin for that," but then it's gone, you know.
 20 Q Right.
 21 A So does that make the other Kin worth that
 22 much? No, not necessarily.
 23 Q I understand your point. All Kin were --
 24 A There's no magical mechanism.
 25 Q All Kin were created equal.

1 A Yes.

2 **Q If I were to offer to pay more for Kin held**

3 **by Kik than Kin held by somebody else, that would be**

4 **irrational?**

5 A But possible.

6 **Q It's possible.**

7 A Right.

8 **Q But a rational person would treat all Kin**

9 **as the same value?**

10 A A rational person would say, "Hey, I want

11 to buy Kin. Who wants to sell Kin," and then buy it

12 from the person who is offering it for the lowest

13 price.

14 **Q Okay. And some Kin was held by the public**

15 **after the public sale?**

16 A Yes.

17 **Q And some by the Foundation?**

18 A Yep.

19 **Q And some by Kik, right?**

20 A Correct.

21 **Q And those were all equal?**

22 A All the Kin that they held were equal.

23 Correct.

24 **Q All three of those --**

25 A Were technologically equal, yes.

1 **Q Okay. And you would have -- you have no**

2 **reason to think they'd be of different value just**

3 **because they were held by Kik versus the public?**

4 A No.

5 **Q Okay.**

6 MR. MITCHELL: Would a rise and demand

7 affect the value of Kik's Kin differently than it would

8 affect the value of the public's Kin?

9 THE WITNESS: No, not logically. It's

10 possible, but no, not logical.

11 BY MR. LEASURE:

12 **Q I'm going to introduce you very quickly a**

13 **document, Exhibit 206.**

14 **(SEC Exhibit No. 206 was marked for**

15 **identification.)**

16 BY MR. LEASURE:

17 **Q Take a look at it. I'm going to ask you a**

18 **very short series of questions. The first one of which**

19 **is: Do you recognize this document?**

20 A I do not, not immediately.

21 **Q Okay.**

22 A I'm not actually sure what this is, RFA.

23 I'm not even sure what "RFA" stands for. Do you want

24 me to read it, or what's your --

25 **Q Eyeballing it, you don't recognize this**

1 **document?**

2 A Not immediately. I'm looking at the title.

3 Based on the title on the first page, I don't recognize

4 it.

5 **Q Okay.**

6 A I see that there are Bates numbers, so that

7 gives me a hint of what it might be, but I don't

8 recognize it.

9 **Q Okay. Did you review any document like**

10 **this at any point?**

11 A It's possible, but I don't recall reviewing

12 this document when I look at this right now.

13 **Q Okay. Okay. I'll take it back.**

14 **Is Kin tradable for other tokens?**

15 A It is.

16 **Q And we're -- if I wanted to do that, what**

17 **would I do?**

18 A You have different options. You could find

19 somebody who -- on the street, you know.

20 **Q Sure.**

21 A "Hey, I have Kin. You have Bitcoin. Do

22 you want to trade?" That's possible. There's also

23 exchanges that help make that process more efficient

24 for people who want to do that. I'm not exactly sure

25 which exchanges you can do that with Kin today.

1 **Q Okay. Generally in the crypto space, there**

2 **are exchanges that allow people to exchange a**

3 **cryptocurrency for another?**

4 A Correct.

5 **Q Or a cryptocurrency for, if I can use the**

6 **term, fiat currency, like a dollar?**

7 A Correct.

8 **Q Okay. You don't know which exchanges Kin**

9 **is listed on?**

10 A I know it was on Bancor, for example. But

11 outside of that, I don't know specifically. I don't

12 recall.

13 **Q I apologize. B-a-n --**

14 A Bancor. B-a-n-c-o-r.

15 **Q Thank you. We talked earlier, I think you**

16 **testified, correct me if I'm wrong, that it's important**

17 **for the Kin project to allow people to have liquidity**

18 **in Kin for other instruments?**

19 A Correct.

20 **Q Okay. And getting listed on exchanges**

21 **would help with that liquidity?**

22 A Correct.

23 **Q Okay. And do you hope that Kin will be**

24 **listed on exchanges?**

25 A At some point, for Kin to achieve the

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1 vision it wants to achieve, it would accelerate its
2 ability to do that by being listed on more exchanges
3 than it is today.

4 **Q Okay. And people who hold Kin -- we talked**
5 **about this earlier. People who hold Kin have been**
6 **asking when will Kik be listed -- when will Kin be**
7 **listed on exchanges?**

8 A Correct.

9 **Q Okay. I'm going to show you a document I'm**
10 **marking Exhibit 207.**

11 (SEC Exhibit No. 207 was marked for
12 identification.)

13 BY MR. LEASURE:

14 **Q Take a look at Exhibit 207 and let me know**
15 **when you're ready. This one is shorter. I'll**
16 **represent to you this document, Exhibit 207, does not**
17 **have a Bates stamp. I'll represent to you this is a**
18 **Tweet --**

19 A Yep.

20 **Q -- that we at the SEC saw on Twitter and**
21 **printed out. It looks like in August of 2018. The**
22 **Tweet appear -- just to recognize it, the Tweets here**
23 **appear to be dated September 17 and September 18 of**
24 **2017.**

25 A Uh-huh.

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1 **Do you see that?**

2 A I do.

3 **Q And the Kin Foundation Twitter handle**
4 **responds, "We have been given indication from multiple**
5 **exchanges that they plan to list the token. No**
6 **specifics available yet, though."**

7 A Yep.

8 **Q Let me pause there. Do you know who wrote**
9 **that Tweet from the Kin Foundation?**

10 A I do not.

11 **Q Okay. You suspect it might be -- is it**
12 **fair to say it might be someone -- an employee in**
13 **Israel who managed that account?**

14 A Might have been somebody in Israel. Might
15 have been somebody in the U.S., in the New York office.
16 Could have been actually somebody in Waterloo. There's
17 somebody on the community team today who's in Waterloo.

18 So it's hard for me to say who exactly.

19 But a Kik employee would have wrote this.

20 **Q Yeah. But it wasn't you?**

21 A No, not to my recollection.

22 **Q Fair enough. When they -- whoever it is,**
23 **when the Kin Foundation Twitter handle says they have**
24 **been -- that, "We have been given indication from**
25 **multiple exchanges that they plan to list the token,"**

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1 **Q Do you see that at this point?**

2 A Yep.

3 **Q And the Twitter account is -- one of the**
4 **Twitter accounts here is Kin Foundation.**

5 **Do you see that?**

6 A I do.

7 **Q Let me -- let me just ask a few basic**
8 **things. Have you seen this Tweet before?**

9 A I don't recall seeing this Tweet before.

10 **Q Okay. Kin Foundation had a Twitter account**
11 **in September of 2017?**

12 A Yes.

13 **Q How -- who ran that?**

14 A I'm not exactly sure, but I think it was a
15 team in Israel if I had to guess.

16 **Q Okay. That they would post things or reply**
17 **to Tweets to them on that Twitter handle?**

18 A Yes.

19 **Q Okay.**

20 MR. MITCHELL: Were those Kik employees?

21 THE WITNESS: Yes.

22 BY MR. LEASURE:

23 **Q Okay. And just to read out what we're**
24 **seeing here, a Twitter user says, "Hey," emoticon, "any**
25 **news on the exchanges Kin will be available on?"**

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1 **let me pause there.**

2 **Do you know what exchanges are being**
3 **referred to?**

4 A I do not.

5 **Q Had Kik gotten -- this is prior to the**
6 **public -- the completion of the public sale, correct?**

7 A I can't recall when the public sale
8 completed, but I'll take -- if you're saying it did,
9 then yes.

10 **Q Right. That's fine. And it's around the**
11 **time of the public sale, in any event, right, September**
12 **of 2017?**

13 A Yes.

14 **Q That's fair?**

15 A That's fair.

16 **Q Okay. Had Kik gotten indication or been in**
17 **communications with exchanges at that point?**

18 A I can't recall what conversations exactly
19 had happened at that point, but I -- you know, when a
20 new cryptocurrency gets created, they would go on to
21 exchanges. So I have no reason to believe that there
22 wouldn't be multiple exchanges who had told us -- had
23 indicated to us that they plan to list Kin as a token
24 on their exchange.

25 **Q You don't know what exchanges they were or**

Page 560

1 if that communication happened?

2 A No.

3 Q Okay. I'll take that back. Has Kik made
4 efforts to get Kin listed on exchanges?

5 A Yes.

6 Q Tell me about that.

7 A For Kin to work as a business model for
8 developers, they would need to be able to sell Kin in
9 some cases on exchanges for dollars to pay for their
10 expenses. That's what made it a fundamentally new
11 business model. And so as part of that, we -- you
12 know, there's sort of better exchanges and worse
13 exchanges, more popular exchanges and less popular
14 exchanges.

15 And so I think this was a period where what
16 exactly -- how cryptocurrencies and exchanges would
17 work together was rapidly changing. Whereas, you know,
18 very shortly before this, it seemed like, from our
19 point of view, from my point of view, exchanges would
20 just list tokens on their own.

21 Whereas today, you know, exchanges won't
22 list tokens without sort of direct contact and
23 discussion with the projects themselves.

24 Q And so you expected that prior -- prior to
25 the public sale, your expectation was exchanges would

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1 just start listing and allowing trading in Kin?

2 A Yes.

3 Q And that's changed since the public sale?

4 A For the entire industry, yes.

5 Q Oh, right. Not just for Kin?

6 A Yes.

7 Q And they expect contact from, you said, the
8 project itself?

9 A Yes.

10 Q And that would be, like, the Kin project?

11 A Any project that. The people whose
12 brainchild this was.

13 Q Okay. And in this -- in the Kin case, that
14 would be you or people at Kik?

15 A Correct.

16 Q Got it. And so Kik has reached out to
17 exchanges as part of that?

18 A Correct.

19 Q Which ones?

20 A I know we reached out to Bittrex. We've
21 had conversations with them. We've had conversations
22 with Coinbase. Beyond that, no names immediately come
23 to mind. But I know we've had conversations with many.

24 Q Okay. Let me just give you a few other
25 names to see if any -- if contact with them might ring

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1 a bell.

2 A Sure.

3 Q Kraken, K-r-a-k-e-n?

4 A I don't remember a specific conversation,
5 but it wouldn't surprise me.

6 Q Binance.

7 A Yep.

8 Q There has been --

9 A We had conversations with them. Again, I
10 wasn't involved in many of these conversations. I'm
11 not sure if I was -- I did meet someone from an
12 exchange at ConsenSys this year in 2018, but I recall
13 who that was.

14 Q Okay. Coinrail? I think they might be a
15 Korean exchange.

16 A That one doesn't ring a bell.

17 Q Okay. What have you been involved in
18 yourself?

19 A What have I been involved with when it
20 comes to exchanges?

21 Q Yes, please.

22 A I've been getting updates from different
23 members of the team who have been working with
24 exchanges. I've had a couple of conversations with
25 exchanges or people that work at exchanges themselves.

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1 Q In this post -- I take it it's a somewhat
2 new world for exchanges than it was before the public
3 sale. I think that's what you testified to, that they
4 want contact from the project.

5 A Correct.

6 Q What do they want?

7 A I think they want many different things.
8 For example, they want to see the utility. They
9 also -- in certain cases, I seem to recall they want
10 legal opinions as well.

11 Q That the tokens aren't securities?

12 A Yes.

13 Q Has Kik provided them that?

14 A I'm not sure what exactly we have provided
15 to exchanges. But I seem to recall that there was some
16 technical reason, nothing to do with crypto or
17 securities, but just to do with the definition of a
18 legal opinion of why it was difficult to give a legal
19 opinion.

20 Q Can you amplify that?

21 What do you know about that?

22 MR. GIBBS: I want to caution you again.
23 If you can answer the question without revealing the
24 content of communications with counsel, by all means,
25 do. Otherwise, don't.

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1 THE WITNESS: Yes. I had conversations.
 2 My understanding of this would come from conversations
 3 with Eileen, who was our internal counsel.
 4 BY MR. LEASURE:
 5 **Q Understood. Again, that caution applies.**
 6 **Do you know what an opinion letter from a law firm is?**
 7 A I do not.
 8 **Q Okay. Has Kik given -- to your knowledge,**
 9 **has Kik given an opinion letter to an exchange?**
 10 A Not to my knowledge.
 11 **Q Have exchanges asked for one?**
 12 A I can't say for sure, but I feel like they
 13 have asked for it.
 14 **Q Okay. And do you know why Kik hasn't given**
 15 **an opinion letter to an exchange?**
 16 MR. GIBBS: Same instruction.
 17 THE WITNESS: Yeah. It's attorney-client
 18 privilege.
 19 MR. LEASURE: And you're instructing him
 20 not to answer that?
 21 MR. GIBBS: I am.
 22 MR. LEASURE: Okay.
 23 MR. SCHLEGELMILCH: While you're looking
 24 for documents, I just want to make sure I understood
 25 your testimony. Did you say that the exchanges were

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1 Other than -- well, let me ask just one
 2 followup question. Other than the video to Bittrex,
 3 are you aware of any other -- sort of something similar
 4 and evidence of utility that Kik has provided to an
 5 exchange?
 6 THE WITNESS: Nothing comes to mind.
 7 MR. SCHLEGELMILCH: What about evidence of
 8 utility that Kik has provided to anyone -- any other
 9 sort of entity or thing regarding the Kin token?
 10 THE WITNESS: Nothing comes to mind.
 11 MR. SCHLEGELMILCH: Okay. Thank you.
 12 BY MR. LEASURE:
 13 **Q Bittrex. You have -- did you have contact**
 14 **with them?**
 15 A I did speak to the CEO of Bittrex.
 16 **Q Who is that?**
 17 A I can't remember his name.
 18 **Q Let me give you -- I see an e-mail between**
 19 **you guys in September of 2017, just to be -- just to**
 20 **move this along.**
 21 A Sure.
 22 **Q A person named Bill Shihara, S-h-i --**
 23 A That's the one, yeah.
 24 **Q -- h-a-r-a. I see an e-mail setting up a**
 25 **discussion in September of 2017.**

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1 also looking for -- and I'm not trying to misquote you.
 2 I'm just trying to bring you back -- for evidence of
 3 utility or something like that, something to effect of
 4 that?
 5 THE WITNESS: Yes. I think exchanges
 6 wanted to see that you could buy a cryptocurrency and
 7 use it, and we demonstrated that to exchanges.
 8 MR. SCHLEGELMILCH: To which ones?
 9 THE WITNESS: I can't recall specifically.
 10 I think Bittrex, we showed that to. I can't recall who
 11 else.
 12 MR. SCHLEGELMILCH: Do you remember how you
 13 did that, how you demonstrated that to Bittrex?
 14 THE WITNESS: I think we took a video of it
 15 and sent it to them.
 16 MR. SCHLEGELMILCH: Okay. So there's a
 17 video that you sent to Bittrex?
 18 THE WITNESS: I believe so, but I'm not
 19 100 percent sure.
 20 MR. SCHLEGELMILCH: Okay. Has that video
 21 been provided, Counsel?
 22 MR. MITCHELL: Yes, I think so.
 23 MR. SCHLEGELMILCH: It has?
 24 MR. MITCHELL: I believe it has.
 25 MR. SCHLEGELMILCH: Thank you. Thank you.

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1 A Yep.
 2 **Q Can you give me any color about that**
 3 **discussion, what happened?**
 4 A I can't recall specifically, but my best
 5 guess is I explained the vision of Kin to him.
 6 **Q And how did they react?**
 7 A They thought it was awesome.
 8 **Q That's great. And what happened next?**
 9 A From what I can tell, nothing happened
 10 next.
 11 **Q And why is that?**
 12 A I don't know.
 13 **Q Did they -- and did they ask for a legal**
 14 **opinion, anything like that?**
 15 A I can't recall.
 16 **Q Coinbase --**
 17 A Yeah.
 18 **Q Has there been recent -- I'll represent to**
 19 **you we got -- I think from a letter from counsel, we**
 20 **heard that there was some recent-ish, maybe in the last**
 21 **couple months, interactions with Coinbase.**
 22 **Does that ring a bell for you?**
 23 A It does.
 24 **Q Tell me about it.**
 25 A I can't recall the last couple of months.

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1 I do know that their CTO reached out somewhat recently,
2 I would say, in the last two weeks about Kin.

3 **Q Okay. Let's back up. What is Coinbase?**

4 A Coinbase is a place to buy, sell, and
5 manage cryptocurrencies, is how I'd describe it.

6 **Q So it's an exchange, like the other ones
7 we've been describing?**

8 A Yep.

9 **Q Okay. And there was outreach from Coinbase
10 to Kik?**

11 A Yes.

12 **Q What do you know about that outreach?
13 What were they saying?**

14 A That they were looking at listing Kin and
15 they wanted to learn more.

16 **Q And what did they want to learn?**

17 A I'm not sure.

18 **Q Did Kik give them information?**

19 A I'm not sure.

20 **Q Okay. Did Kik file an application to be
21 listed?**

22 A I believe we did, yes.

23 **Q And did that application go into the
24 securities laws, anything like that?**

25 A I'm not sure.

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1 **Q Don't know. Do you know who prepared it?**

2 A I would think Eileen, but I'm not sure.

3 **Q Did you review it before it was sent?**

4 A No, I don't think so.

5 **Q Okay. Are you -- so Kik -- sorry. I guess
6 Kik as the face or the sponsor of the Kin project is
7 talking to exchanges -- has been talking to exchanges,
8 correct?**

9 A Correct.

10 **Q Okay. How about -- are you aware of other
11 parties trying to get Kin listed on exchanges and
12 reaching out to exchanges?**

13 A I am aware that the Kin Foundation hired a
14 consultant to reach out to exchanges, to get Kin listed
15 on exchanges.

16 **Q Who was the consultant?**

17 A His name is -- his first name is Juan. I
18 can't remember his last name.

19 **Q Is he affiliated with a company or it's --
20 he's a solo person?**

21 A He is a consultant hired by the Kin
22 Foundation.

23 **Q Okay. And has he been reaching out to
24 exchanges on behalf of the Kin Foundation?**

25 A Yes.

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1 **Q Okay. Do you know what exchanges?**

2 A I do not. A lot of them.

3 **Q A lot of them. Has he had success so far?**

4 A I'm not sure.

5 **Q Well, I mean, has a major exchange listed
6 Kin?**

7 A Not yet.

8 **Q And I take it his efforts are to get larger
9 exchanges to list Kin?**

10 A Correct.

11 **Q Okay. So other than Kik and its role and
12 the Kin Foundation, are you aware of anyone else
13 reaching out to exchanges to get Kin listed?**

14 A I am not.

15 **Q Okay.**

16 A That's not true, actually.

17 **Q Okay.**

18 A I have heard in the Reddit community people
19 reaching to exchanges to get Kin listed.

20 **Q And do exchanges come back to them? Just
21 from what you're seeing in Reddit, do exchanges have a
22 dialog with those people?**

23 A It looks like they do, yes.

24 **Q Do those people provide legal analyses to
25 the exchanges?**

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1 A I don't know.

2 **Q Okay. A few quick questions about the
3 Foundation. The Foundation has a series of agreements
4 with Kik Interactive; is that right?**

5 A Correct.

6 **Q What do those agreements provide for?**

7 A So the Kin Foundation today, as I
8 understand it, has two members and two board members,
9 myself and William. We have one consultant, which is
10 Juan. And I believe we have our own counsel, but I'm
11 not sure, separate counsel.

12 So there's many things that the Foundation
13 needs to do that it doesn't yet have employees to do.
14 And so I believe the contract is contracting Kik to do
15 those things for it.

16 **Q Okay.**

17 A But I'm not exactly sure.

18 **Q That's fine. And we can read the contract
19 and see. But the Foundation doesn't have employees and
20 needs things to be done on its behalf?**

21 A Correct.

22 **Q And it contracted with Kik Interactive to
23 provide those employees and those services?**

24 A In some cases, yes.

25 **Q Okay. In other cases, the Foundation does**

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1 **things on its own?**

2 A For example, we contracted with Juan to
3 approach exchanges, and it did that on its own, yes.

4 **Q Right. It reaches its own contracts with
5 others?**

6 A Yeah.

7 **Q Okay. Has the Foundation to date paid Kik
8 for services Kik has rendered to the Foundation?**

9 A I don't believe so.

10 **Q Does it owe Kik money?**

11 A I believe there was a loan agreement
12 between Kik and Kin, yes.

13 **Q And how will the Foundation pay Kik back,
14 if you know?**

15 A It has the same business model as everybody
16 else in the ecosystem, which is it holds a large piece
17 of that asset and it can sell that -- pieces of that
18 asset for dollars.

19 **Q Got it. So the idea is if it needs to pay
20 Kik for services rendered, it can sell some Kin?**

21 A Yep.

22 **Q And pay Kik the proceeds of that?**

23 A Yeah. Kik or anybody else.

24 **Q Okay. And so Kik employees currently are
25 working under this agreement for the Foundation?**

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1 that work is -- are those being done for the Kin
2 Foundation, just the part where the decision has to be
3 made whether to do the investment?

4 THE WITNESS: Sorry. Say that again.

5 MR. MITCHELL: In what you just described,
6 what part of -- what work is being done there for the
7 Kin Foundation under those agreements?

8 THE WITNESS: What work in that scenario is
9 being done by Kik?

10 MR. MITCHELL: For the Kin Foundation.

11 THE WITNESS: Oh, that's what I'm saying.
12 It's sort of a complicated thing to -- you know, what's
13 been done by Kik for itself to grow the value of its
14 Kin and therefore the Kin of everybody else versus
15 what's being done for the Kin Foundation specifically,
16 which is also trying to grow the Kin economy for itself
17 and for everyone else.

18 MR. MITCHELL: So the people you were
19 describing just then who might be out talking to
20 possible partners --

21 THE WITNESS: Yep.

22 MR. MITCHELL: -- who is paying them?

23 THE WITNESS: Kik.

24 MR. MITCHELL: And is Kik getting
25 reimbursed for that?

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1 A I think it's -- well, if I step back for a
2 second, I think it's -- part of it is a question in
3 what exactly the Kin Foundation is responsible for.
4 And so I think, fundamentally, what the Kin Foundation
5 is responsible for is the fair and productive spending
6 of its 6 trillion Kin.

7 There is other ideas in the past of
8 different things they could be responsible for. But at
9 the end of the day, I think that is what it is
10 responsible. For example, we talked about renaming the
11 Kin Foundation, the Kin reserves. So when I look at
12 that, the reason I give that context, there were
13 employee working on that, like, largely, that's just
14 spending decisions that William and I say yes or no to.

15 **Q Okay.**

16 A So Kik employees are doing many things in
17 the ecosystem. Some of them are finding partners,
18 talking to them about, you know, why Kin is great, et
19 cetera, and then bringing them to the Foundation and
20 saying, "Hey, if you give them this much Kin, then
21 maybe they will develop for the Kin ecosystem. Do you
22 want to do that?" And William and I can make the
23 decision, yes or no.

24 **Q Got it.**

25 MR. MITCHELL: In that example, what of

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1 THE WITNESS: No, not to my knowledge.

2 MR. LEASURE: I think we need to take a
3 disc or tape break.

4 MR. MITCHELL: Oh, sorry.

5 MR. LEASURE: We'll go off the record.

6 THE VIDEOGRAPHER: This ends Disc Number 3.
7 Going off the record. The time is 4:10 p.m.

8 (Recess.)

9 THE VIDEOGRAPHER: This begins Disc
10 Number 4. We are back on the record.

11 The time is now 4:13 p.m.

12 MR. MITCHELL: Mr. Livingston, during the
13 break, did you have any substantive conversations with
14 the staff about the case?

15 THE WITNESS: I did not.

16 MR. MITCHELL: Has Kik done work for the
17 Kin Foundation that it expects to get reimbursed for
18 under the services agreement?

19 THE WITNESS: It's unclear to me what
20 work -- because it's just a brand new thing. Nobody
21 has ever done this before -- what work Kik is doing for
22 itself and what work it is doing for the Foundation.

23 MR. MITCHELL: Why is that unclear to you?

24 THE WITNESS: For example, Kik is paying
25 employees to go out and find developers to integrate

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1 Kin. Is Kin doing that for the Foundation and it
2 should get reimbursed or is Kik doing that for itself
3 because it holds 3 trillion Kin? It's unclear.

4 MR. MITCHELL: Okay. Has the Foundation
5 instructed Kik to do that work?

6 THE WITNESS: It's unclear to me. I'm not
7 sure.

8 MR. MITCHELL: I guess I don't understand.
9 If there are only two board members at the Foundation,
10 how could the Kik -- how could the Foundation have
11 given Kik that instruction but you not know about it?

12 THE WITNESS: I guess what I meant by that
13 was I'm not sure what's in the services agreement. I
14 wasn't involved in the drafting of that. I don't
15 recall personally William and I -- or I taking a vote
16 to go tell Kik to do this.

17 MR. MITCHELL: And what about -- have you
18 and William taken a vote or in any way told Kik to do
19 any specific work?

20 THE WITNESS: I think what William and I
21 have done is Kik employees have come to us with
22 proposals for partners and the Kin they would get to
23 join the ecosystem in lieu of having the Kin Rewards
24 Engine at this point. And William and I have
25 instructed them whether we agree or disagree with that

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1 for itself for its own selfish participation in the
2 ecosystem and what Kik should get reimbursed for that
3 the Kin Foundation -- work it's doing for the Kin
4 Foundation.

5 MR. MITCHELL: And are people working those
6 issues out?

7 THE WITNESS: I think we're iterating
8 through the options.

9 MR. MITCHELL: Who's the "we"?

10 THE WITNESS: Myself and William largely
11 and -- I think the lead would be myself and William,
12 but also in discussions with employees from Kik as
13 well.

14 MR. SCHLEGELMILCH: Are any other Kin
15 owners doing work for the Foundation?

16 THE WITNESS: Are any -- maybe if the
17 question is: Are any other Kin owners meeting with
18 William and I in sort of a board meeting setting? No.
19 Well, only Juan -- I believe Juan is an owner of Kin.
20 He may be. But other than him, I would say no.

21 MR. SCHLEGELMILCH: But he's meeting as a
22 consultant, right?

23 THE WITNESS: Correct.

24 MR. SCHLEGELMILCH: So -- but I guess the
25 Kin Foundation doesn't have any services agreement or

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1 proposal.

2 MR. MITCHELL: Anything other than those
3 kinds of interactions?

4 THE WITNESS: Not that I can think of.

5 MR. MITCHELL: Okay. Now, let me just
6 put -- have you put on your Kik CEO hat. Is Kik -- are
7 there any Kik employees who are tracking their hours to
8 say, "This amount of work I'm doing, I'm doing for the
9 Foundation under the services agreement"?

10 THE WITNESS: Not to my knowledge. It's
11 possible, though, but not to my knowledge.

12 MR. MITCHELL: Is anybody planning to do
13 that?

14 THE WITNESS: Not to my knowledge, but it's
15 possible.

16 MR. MITCHELL: It's possible that it might
17 happen in the future?

18 THE WITNESS: Or that people might be doing
19 it today.

20 MR. MITCHELL: Okay. Is there any plan for
21 Kik to sort of assemble a bill and say, "This is the
22 work that Kik did, and we'd like to get reimbursed for
23 it"?

24 THE WITNESS: There is evolving plans on
25 what would be fair. It's unclear what Kik should pay

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1 any other sort of agreement with any other Kin owners,
2 correct?

3 THE WITNESS: Not to my knowledge.

4 MR. SCHLEGELMILCH: Only with Kik?

5 THE WITNESS: To the best of my knowledge,
6 yes.

7 BY MR. LEASURE:

8 **Q Was there ever a consideration of hiring a**
9 **CEO for the Foundation?**

10 A Yes.

11 **Q Tell me about that.**

12 A I think it's been unclear and is still
13 unclear what exact role the Kin Foundation will play
14 over the next five or ten years. Lots of different
15 crypto projects have tried lots of different ways, many
16 of which haven't worked or have been damaging to the
17 overall success of the project.

18 And so we're trying to figure out what is
19 the best -- what is the role at the end of the day of
20 the Kin Foundation. That, I think, has been the
21 primary discussion. Like, "Should we be doing this or
22 should we be doing that?" I think where I have
23 landed -- but, again, this is an ongoing discussion --
24 is the Kin Foundation should manage the spending of its
25 6 trillion Kin reserves. That's what it should do.

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1 Some of that, I think, over time will be
2 the Kin Reward Engine. That will be payment to
3 partners. That will be bounties to developers for
4 improving things like the blockchain. There will be
5 many different ways that it will spend that 6 trillion
6 Kin. It's unclear at this point what the exact right
7 structure inside the Kin Foundation should be to
8 accomplish that. It's unclear right now if that will
9 require a CEO or not.

10 **Q It's unclear to you if it requires active**
11 **day-to-day managers solely wearing the Foundation hat?**

12 A Correct.

13 **Q Whereas that work -- a lot of that work**
14 **might just stay within Kik, and maybe come up with a**
15 **billable structure or some other long-term resolution**
16 **for that relationship?**

17 A It's unclear. Like, at some point, you
18 know, I think many -- like, for example, we talked
19 about the Kin Foundation putting up RFPs for different
20 things that, you know, we want a developer program run
21 in Korea. And if you, you know, submit the winning
22 bid, we'll give you, you know, 50,000 Kin or whatever
23 it might be. It's unclear if that's something that
24 William and I can do.

25 Should we hire a CO to do that? Can that

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1 be crowd-sourced? We're not sure at this point.

2 **Q Okay. So it's still a work in progress,**
3 **what the structure will look like?**

4 A Yes.

5 **Q Okay. I want to turn to where we -- events**
6 **after the public sale, the key, sort of, milestones in**
7 **your mind for the Kin project after the public sale.**

8 A Sure.

9 **Q We talked a lot about the blockchain, the**
10 **Stellar fork.**

11 A Uh-huh.

12 **Q I think I see that there was -- there's**
13 **something called Kinnit --**

14 A Yep.

15 **Q -- that came about.**

16 **What can you tell about Kinnit?**

17 A Kinnit was an app developed by Kik
18 employees in Israel as an example of an open-sourced
19 app you can build and integrate in Kin.

20 **Q And the hope is by doing that, other apps**
21 **might be encouraged to accept Kin in their app?**

22 A That it would lower the barriers to
23 adoption by other developers, yes.

24 **Q Okay. And other developers -- I think you**
25 **identified today that there are other developers out**

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1 **there who now accept or are working on integrating Kin**
2 **into their platforms?**

3 A Yes.

4 **Q Okay. And Kik has a group -- as part of**
5 **the Kin side of its -- of its business, has a group**
6 **working to identify and encourage developers to join**
7 **the Kin ecosystem?**

8 A Correct.

9 **Q Okay. And so there have been some**
10 **milestones on the way of developers signing on in 2018,**
11 **right?**

12 A Yes. Correct.

13 **Q Okay. So we've covered the blockchain,**
14 **Kinnit, getting developers on board. I'm trying to**
15 **hear from your perspective other key milestones in the**
16 **Kin project for 2018.**

17 A I think -- so Kinnit became the first app
18 ever to get approved by Apple for the iOS app store
19 where you could both earn and spend a cryptocurrency in
20 the app.

21 **Q Oh, I see. So getting the Apple iOS store**
22 **approval was a big deal?**

23 A Yeah. I believe it was the first in the
24 world.

25 **Q Okay. I'm sorry. I want to keep hearing**

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1 **the milestones from your perspective.**

2 A I think the other big milestone is
3 developers going live with apps that integrate Kin.

4 **Q Okay.**

5 A I believe there's roughly ten apps in the
6 iOS and Android app stores, Playstore, live today that
7 you can go download where you can earn and spend Kin.

8 **Q Okay. And the goal is obviously to get**
9 **more?**

10 A Yes.

11 **Q What else in terms of key milestones from**
12 **your perspective?**

13 A From my perspective, those are the key
14 milestones.

15 **Q Okay. Let me show you -- I think it's**
16 **another Medium post.**

17 A Okay.

18 **Q I'll walk you through it. I'm marking this**
19 **as Exhibit 208.**

20 (SEC Exhibit No. 208 was marked for
21 identification.)

22 BY MR. LEASURE:

23 **Q There you go. Take a look and let me know**
24 **when you're ready. Exhibit 208, which does not have a**
25 **Bates stamp, I'll represent to you is a Medium post or**

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1 a document I found on the Medium website that I printed
2 off on November 1st, 2018.

3 A Okay.

4 Q And it has a date of September 26th. And
5 my understanding from data is that that's September
6 26th, 2018. It says, "Kin, One Year In."

7 A Uh-huh.

8 Q Did you write this?

9 A I believe I wrote a first draft of this,
10 then I worked with other people to edit it, and then it
11 was posted under my name.

12 Q Okay. Why did you -- why did you -- did
13 you want -- I take it you wanted this posted.

14 A This was a recommendation from the
15 marketing team that -- to be honest, this was not on my
16 raider, but it felt like -- the logic was that it was a
17 one-year anniversary. And as such, we should
18 commemorate it on behalf of the community by me, the
19 brainchild -- this being my brainchild, by writing this
20 post.

21 Q And is it fair to say at least the
22 marketing team wanted you and other people at Kik to be
23 out there publicly talking about the Kin project still?

24 A I think they just thought it would be a
25 nice thing to do.

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1 Q For the Kin community?

2 A Yeah.

3 Q Okay. To hear from the founder of the
4 project?

5 A Yes.

6 Q Okay. So, again, under the title "Kin, One
7 Year In," it says, "It's been one year since the Kin
8 token distribution event. Since then, we have been
9 following a three-step strategy to make Kin the most
10 used cryptocurrency in the world. One, create a
11 scalable blockchain; two, launch Kin inside Kik; three,
12 expand the ecosystems to other apps. We have made
13 great progress on three."

14 Let me pause there. Is that accurate?

15 A Yes.

16 Q Okay. And is the "we," are you reflecting
17 both Kik and the Kin project? I want to understand
18 what's within the "we."

19 A I think when I refer to "we," I mean the
20 ecosystem broadly, all of the participants.

21 Q Okay. And your -- whether the CEO or not,
22 you're a player in that ecosystem --

23 A Correct.

24 Q -- and a key player in that system, would
25 you agree?

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1 A I would agree.

2 Q Okay. In terms of -- we talked about the
3 blockchain a lot yesterday.

4 A Uh-huh.

5 Q I don't want to re-go back there. I think
6 we talked about expanding the ecosystem to other apps,
7 correct, through Kinnit and getting other apps to
8 launch Kin in their app, in their platforms, right?

9 A Right.

10 Q Launch Kin inside Kik, what happened in
11 2018 on that?

12 A We -- in 2018, we integrated the SDK -- the
13 new SDK that integrated into the new fork of Stellar
14 blockchain. We created a marketplace inside of Kik
15 that allowed you to earn Kin and see your Kin and see
16 all of your transactions on that new fork of Stellar
17 blockchain. And we integrated a way to purchase chat
18 themes inside of Kik with Kin.

19 Q Got it.

20 MR. MITCHELL: That's inside the messaging
21 app?

22 THE WITNESS: Correct.

23 MR. MITCHELL: And does Kik the -- Kik, the
24 company, controls the messaging app?

25 THE WITNESS: Correct.

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1 MR. MITCHELL: Did people outside Kik, the
2 company, make changes to the messaging app?

3 THE WITNESS: Not to my knowledge.

4 BY MR. LEASURE:

5 Q It might be helpful if I can point you to
6 the second page. There's a sort of diagram there
7 showing what appears to me to be a winding road.

8 Do you see that?

9 A I do.

10 Q Okay. Did you write this?

11 A I did not.

12 Q Did you review this before it was
13 published?

14 A I did not.

15 Q Okay. Who wrote this?

16 A I assume somebody from the marketing team.

17 Q Okay. Who led that at that time?

18 A I think this would have been created by the
19 communications team, which would be Rod at the time,
20 but I'm not sure.

21 Q Okay. I just want to point to a few things
22 and tell me if you can give me context on what might be
23 being referred to here.

24 A Sure.

25 Q First, on April 13th -- I take it this is

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1 2018, the dates listed here.
 2 Does that seem right to you?
 3 A April 13th.
 4 Q Do you see that? It's on the second line.
 5 A Yes, I do see that.
 6 Q Okay. And is that -- do you believe that's
 7 referring to events in 2018?
 8 A I do.
 9 Q Okay. It references the first Kin
 10 ambassadors event held in New York City?
 11 A Yep.
 12 Q What can you tell me about that?
 13 A Kik employees put together an event to
 14 identify the most active people in various social media
 15 channels and to invite them to New York.
 16 Q Did you go?
 17 A I did.
 18 Q Okay. And this -- and when you say active
 19 people in social media channels, are these developers
 20 or are these just sort of active social media users?
 21 A It's unclear which are developers and which
 22 are not or even what are their professions. Just that
 23 they were very passionate and knowledgeable about Kin,
 24 the Kin project broadly.
 25 Q And they were -- oh, so they were people

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1 who were enthusiastic about Kin?
 2 A Correct.
 3 Q Sorry. I apologize. And what was the
 4 purpose of having that event?
 5 A I think it was an event to -- you know, you
 6 had all of these people who loved Kin, were
 7 evangelizing Kin, were contributing to Kin, you know,
 8 people that went on to build apps. And we thought it
 9 would be cool -- my recollection is we thought it would
 10 be a cool way to bring them together and have them meet
 11 in person.
 12 Q Okay. And then with the hope of them being
 13 enthusiastic about -- continuing to be enthusiastic
 14 about Kin, right?
 15 A They were already very enthusiastic about
 16 Kin. I think this is more of about, you know, "Hey,
 17 we're all a community doing this together. We should
 18 all meet each other. And you" -- "we should meet each
 19 other. You guys should meet me. I want to meet you,"
 20 et cetera.
 21 Q Networking?
 22 A Coming -- I don't know about networking.
 23 Coming together as a community and meeting in person.
 24 Q Okay. Meeting people. "05/08" --
 25 A Yep.

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1 Q -- "Kin blockchain launches."
 2 A Yeah.
 3 Q That's the fork we've been discussing
 4 already today?
 5 A Correct.
 6 Q Okay. On June 6th -- there's 06/07.
 7 Do you see that?
 8 A Correct.
 9 Q "Kin blockchain reaches 1.2 million
 10 transactions per day at a rate of 20 transactions per
 11 second."
 12 Do you see that?
 13 A Yep, I do.
 14 Q And do you know what those transactions --
 15 like, if you had to characterize it as transactions,
 16 are you able to characterize what they were?
 17 A I believe they were test, earn, and spend
 18 transactions.
 19 Q Oh, okay. We talked earlier about tests on
 20 the Kin blockchain. Are those those?
 21 A Yep.
 22 Q So this was showing that the Kin blockchain
 23 has greater capacity to handle a lot of transactions?
 24 A Correct.
 25 Q Got it.

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1 MR. SCHLEGELMILCH: Can I just ask a dumb
 2 question? What is a test transaction?
 3 THE WITNESS: It's a transaction like, you
 4 know, I send you one Kin and you send me back one Kin.
 5 Like, it's just programmatically doing that a bunch of
 6 times.
 7 MR. MITCHELL: The test part is -- the
 8 purpose is to test the blockchain as opposed to
 9 actually buy yourself something?
 10 THE WITNESS: Correct.
 11 MR. LEASURE: Got it.
 12 MR. SCHLEGELMILCH: So I think I asked you
 13 yesterday how many transactions were occurring on the
 14 Stellar blockchain per day. I think you gave me a
 15 pretty high number. 50,000, somewhere in that
 16 magnitude. Am I getting that right? Maybe it was an
 17 even higher number than that.
 18 THE WITNESS: I don't recall giving that
 19 number. I recall saying I believe roughly 10,000
 20 people did a transaction, yesterday.
 21 MR. SCHLEGELMILCH: Okay.
 22 THE WITNESS: And depending on how many
 23 transactions they made each, you could do the math for
 24 yourself.
 25 MR. SCHLEGELMILCH: Okay.

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1 THE WITNESS: But I'm not sure how many
2 each day.

3 MR. SCHLEGELMILCH: Yeah. My memory is
4 sort of irrelevant here. I'm just trying to -- so when
5 you say that approximately 10,000 people did a
6 transaction on the blockchain per day, is that -- are
7 those test transactions?

8 THE WITNESS: Those are real transactions.
9 That is real earning and spending transactions in one
10 of the ten apps that is available publicly today.

11 MR. SCHLEGELMILCH: Okay. Thank you. I
12 understand now.

13 BY MR. LEASURE:

14 **Q Moving further down on this diagram,**
15 **there's "06/27, Kik integrates Kin." Do you see that?**

16 A I do.

17 **Q What's that referring to?**

18 A I think that's Kik integrating the new Kin
19 blockchain.

20 **Q Got it. Okay. "07/11, Kin developer**
21 **program launches."**

22 A Yep.

23 **Q What's that program?**

24 A That was a program to find and mentor other
25 developers around the world to integrate Kin into the

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1 about this yesterday -- spearheaded it was Natasha.

2 **Q Right.**

3 A But she has since gone on mat leave
4 recently, so I'm not sure who it is today, but we could
5 find out.

6 **Q Fair enough. Last, I just want to ask**
7 **about an acronym I'm not sure I recognize. Under -- at**
8 **the end of this diagram, there's 14,281 MAWs.**

9 A Yep.

10 **Q What's that?**

11 A That acronym is a new acronym that we're
12 playing around with, which is monthly active wallets,
13 as opposed to monthly active users. I think the thing
14 we're trying to demonstrate with Kin is you see lots of
15 cryptocurrencies where there are lots of transactions.

16 But how many of those transactions are
17 actually people earning or spending the cryptocurrency
18 versus buying it or selling it? So this 14,000 says
19 14,000 people in the last 30 days actually earned or
20 spent the cryptocurrency.

21 **Q Got it. Okay. I can point you to a few**
22 **places. But throughout this document, it describes**
23 **what Kin has done. Let me give you an example. The**
24 **bottom of page 3 of 6, under the section "Expand the**
25 **Ecosystem to Other Apps."**

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1 app they already had or wanted to build.

2 **Q And was this developer program part of the**
3 **Kin part of Kik Interactive, Inc.?**

4 A It was put together by Kik employees who
5 were part of the Kin part of Kik Interactive, Inc.,
6 yes.

7 **Q Thank you. And it looks like on 08/15,**
8 **they found -- they identified 40 participants and**
9 **accepted them?**

10 A Yes.

11 **Q And do you know how they identified them?**

12 A They put out applications. I think they
13 got something, like, 200 applications. They reviewed
14 those applications. And then based on their own
15 criteria, they chose 40. I can't -- I don't -- sitting
16 here, I don't recall what those criteria were or being
17 aware of them at the time.

18 **Q Aside from the specific criteria, do you**
19 **know generally what they were looking for?**

20 A I think they were looking for -- my guess
21 would be -- and I don't know. My guess would be smart
22 developers who could build good apps.

23 **Q And if we wanted to know more about that,**
24 **who within Kik would we ask?**

25 A I think the woman who -- I think we talked

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1 **Do you see that section?**

2 A Yep.

3 **Q And the second paragraph begins, "Kin**
4 **worked with large partners, like Blackhawk Network," et**
5 **cetera.**

6 A Yep.

7 **Q In using Kin like that, is that shorthand**
8 **for the Kin team working in Kin Interactive -- Kik**
9 **Interactive?**

10 A I think it depends on the context. I think
11 this is one of the parts that's sort of confusing about
12 crypto, is like who is Kin, what is Kin. And, you
13 know, if you were to explain the nuance every time of
14 who exactly you mean within Kin, it would be a very
15 complicated and wordy thing to explain.

16 So here, when Kin worked with large
17 partners, you know, that's referring to Kik employees
18 working on Kin worked with large partners.

19 **Q Okay. I got it. And then let me try one**
20 **more just to see if there is nuance and we can unpack**
21 **it. Page 4 of 6, "Finally, Kin has launched the Kin**
22 **developer program."**

23 **Do you see that?**

24 A Yep.

25 **Q Is that, again, Kik employees working on**

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1 **behalf of the Kin project?**
2 A Yes.
3 **Q Okay. I think I'm done with this document.**
4 MR. MITCHELL: So I want to ask you a
5 couple of questions about some of these partners. And
6 I'm going to do it really quickly because Patrick sent
7 us a letter that has -- I'm going to give you what's
8 marked as 209. This is just a letter earlier from this
9 week. And you can see it has a chart at the bottom.
10 (SEC Exhibit No. 209 was marked for
11 identification.)
12 THE WITNESS: Okay.
13 MR. MITCHELL: Okay. So you have the
14 original. I've given copies to you lawyers. Do you
15 see the chart -- have you ever seen this letter before?
16 THE WITNESS: I have not.
17 MR. MITCHELL: Okay. Great.
18 THE WITNESS: Not that I recall.
19 MR. MITCHELL: There's a chart on the
20 bottom. We just asked to get a list of the
21 distributions of Kin tokens.
22 THE WITNESS: Okay.
23 MR. MITCHELL: So this is great, because it
24 just says, like, entity names. And I just want to run
25 through them and ask your sort of understanding of who

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1 THE WITNESS: Okay.
2 MR. MITCHELL: The next line says "Kin Kong
3 Bot."
4 THE WITNESS: Yep.
5 MR. MITCHELL: What is that?
6 THE WITNESS: I believe that was a bot
7 developed by Kik employees.
8 MR. MITCHELL: Okay. So do you have -- do
9 you know -- this -- the line just -- we -- was that
10 there's a distribution to the Kin Kong Bot.
11 Do you know -- is there some separate legal
12 entity other than Kik?
13 THE WITNESS: I don't -- no, not in this
14 case.
15 MR. MITCHELL: Okay. Do you know --
16 there's a number there. Do you know whether there
17 is -- whether Kin tokens were given out to people
18 through the Kin Kong Bot or who got Kin -- who got --
19 THE WITNESS: Yeah, I believe they were
20 given to users through the Kin Kong Bot.
21 MR. MITCHELL: More like Kik app users?
22 THE WITNESS: I'm not sure if it was in Kik
23 or in a separate app. I can't recall.
24 MR. MITCHELL: Okay.
25 THE WITNESS: It might have actually been

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1 they are.
2 THE WITNESS: Okay.
3 MR. MITCHELL: So first is: Do you see the
4 first line, it says that there were 9,000 -- there's a
5 recipient column and a date and a description.
6 Do you see this?
7 THE WITNESS: I do.
8 MR. MITCHELL: So under the "Recipient"
9 column, do you see the 9,000 Kik users?
10 THE WITNESS: Yep.
11 MR. MITCHELL: Earlier, we had talked about
12 Kik giving Kin to power users.
13 THE WITNESS: Yep.
14 MR. MITCHELL: Does this refresh your
15 recollection about when that happened?
16 THE WITNESS: It doesn't. I believe we
17 also gave it to Kik users as part of the token sale,
18 but I'm not sure.
19 MR. MITCHELL: In September?
20 THE WITNESS: In September, yes.
21 MR. MITCHELL: Okay. So then this is going
22 to get a little repetitive --
23 THE WITNESS: This is after the token --
24 MR. MITCHELL: This is going to get a
25 little repetitive, but it will make it fast.

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1 developed at a hackathon. I can't recall what the
2 specifics are on this one.
3 MR. MITCHELL: Gotcha. There's not an
4 entity called Kin Kong Bot?
5 THE WITNESS: No.
6 MR. MITCHELL: All right.
7 THE WITNESS: Not to my knowledge.
8 MR. MITCHELL: Next line, IMVU.
9 THE WITNESS: Yep.
10 MR. MITCHELL: What -- the description, I
11 can just read. It says it's a partner.
12 THE WITNESS: Yep.
13 MR. MITCHELL: What is IMVU?
14 THE WITNESS: It's an avatar community app.
15 MR. MITCHELL: Avatar, like the movie?
16 THE WITNESS: Avatar, like the profile
17 picture and sort of creating a digital avatar, a
18 digital representation of who you want to portray as
19 yourself.
20 MR. MITCHELL: And is there -- there is --
21 is there an entity that's running that?
22 THE WITNESS: There is an independent
23 company. I'm not sure their legal name, but I assume
24 it's something like IMVU, Inc.
25 MR. MITCHELL: Sure. Where?

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1 THE WITNESS: I'm not sure. If I had to
2 guess, I think it's in California, but I'm not sure.
3 MR. MITCHELL: Okay. And did they get Kin
4 tokens?
5 THE WITNESS: I believe so.
6 MR. MITCHELL: Why?
7 THE WITNESS: To -- as their compensation
8 for joining the Kin ecosystem, and also I believe to
9 kick start their Kin economy inside their app.
10 MR. MITCHELL: Okay. Flip to the next
11 page. Perfect365. What's that?
12 THE WITNESS: It is a fashion app.
13 MR. MITCHELL: Where -- I'm sorry.
14 Run by some other entity other than Kik?
15 THE WITNESS: Correct.
16 MR. MITCHELL: Where?
17 THE WITNESS: I believe in China is where
18 they're headquartered.
19 MR. MITCHELL: And did they get Kin tokens?
20 THE WITNESS: They did.
21 MR. MITCHELL: Why?
22 THE WITNESS: For the same reason as IMVU.
23 MR. MITCHELL: All right. Lykke,
24 L-y-k-k-e, do you see that?
25 THE WITNESS: Correct.

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1 MR. MITCHELL: What's that?
2 THE WITNESS: Lykke is an exchange.
3 MR. MITCHELL: It's a place people trade
4 tokens?
5 THE WITNESS: Yes.
6 MR. MITCHELL: And did they get -- I'm
7 sorry. Where is it?
8 THE WITNESS: I believe it's in
9 Switzerland.
10 MR. MITCHELL: And did Kik -- sorry. Let
11 me go on this one. Did they get Kin tokens?
12 THE WITNESS: I believe they did.
13 MR. MITCHELL: From -- did they get them
14 from Kik or from the Foundation or from someone else?
15 THE WITNESS: I believe from the
16 Foundation.
17 MR. MITCHELL: Okay. Why?
18 THE WITNESS: I believe as payment to list
19 Kin on their exchange, but I'm not sure.
20 MR. MITCHELL: Okay. Let me just flip --
21 go back up two lines -- two earlier lines. Perfect365,
22 whose Kin did they receive?
23 THE WITNESS: I believe the Kin
24 Foundation's.
25 MR. MITCHELL: And then same question for

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1 IMVU.
2 THE WITNESS: I believe they received that
3 from Kik.
4 MR. MITCHELL: Developer program. There's
5 a -- do you see a line for developer program?
6 THE WITNESS: Yep.
7 MR. MITCHELL: Was there a group of
8 different developers that received tokens?
9 THE WITNESS: Yep.
10 MR. MITCHELL: Okay. And why did they get
11 them?
12 THE WITNESS: For the same reason.
13 MR. MITCHELL: Okay. It was
14 compensation --
15 THE WITNESS: Compensation and to kick
16 start their Kin economy in their apps.
17 MR. MITCHELL: Great. From where?
18 THE WITNESS: From the Kin Foundation.
19 MR. MITCHELL: Are these transactions
20 actually coming out of Kin's wallet?
21 THE WITNESS: The Kin Foundation's wallet,
22 I believe so, yes.
23 MR. MITCHELL: And, obviously, you don't in
24 your head know the developer -- the names of those
25 developers, but do you think there's someone at Kik who

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1 has a list of those developers?
2 THE WITNESS: Yes. I believe those are the
3 40 developers referenced in the previous document.
4 MR. MITCHELL: Okay. Any of them in the
5 United States?
6 THE WITNESS: I believe so, yes.
7 MR. MITCHELL: Okay. Madlitz,
8 M-a-d-l-i-t-z.
9 THE WITNESS: Yep.
10 MR. MITCHELL: What's that?
11 THE WITNESS: It's another app company.
12 MR. MITCHELL: Where is it?
13 THE WITNESS: It's based in Toronto, I
14 believe.
15 MR. MITCHELL: What kind of app?
16 THE WITNESS: I think it's a comedy app,
17 but I'm not sure.
18 MR. MITCHELL: And they got -- they
19 received Kin tokens?
20 THE WITNESS: Yep.
21 MR. MITCHELL: From whom?
22 THE WITNESS: Kin Foundation.
23 MR. MITCHELL: Why?
24 THE WITNESS: For the same reason.
25 MR. MITCHELL: Okay. And then Tanner Philp

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1 is a Kik employee, right?

2 THE WITNESS: Correct.

3 MR. MITCHELL: And he got Kin tokens?

4 THE WITNESS: Yes, it looks like that.

5 MR. MITCHELL: Leaving aside the list, do

6 you know whether he got Kin?

7 THE WITNESS: I don't know.

8 MR. MITCHELL: You don't know. That's

9 fine. So sitting here today, do you know if he

10 received -- if Philp has received tokens from either

11 Kik or the Foundation?

12 THE WITNESS: I am not sure.

13 MR. MITCHELL: Okay.

14 BY MR. LEASURE:

15 **Q Let me go on. We talked earlier today**

16 **about public appearances you made talking about the Kin**

17 **project prior to the public sale.**

18 A Should I still hold onto this?

19 **Q No. I'll take it back.**

20 A Yep.

21 **Q After the public sale, you continued to**

22 **talk about the Kin project in public?**

23 A Yep.

24 **Q Like, you've gone on Reddit or other social**

25 **media channels?**

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1 A Yep.

2 **Q Okay. Why are you doing that?**

3 A To share my view of where Kin is at.

4 **Q Okay. And your -- is it fair to say you**

5 **continue to put a face on the Kin project?**

6 A I think I continue to be one of the more

7 prominent faces of the Kin project, yes.

8 **Q Okay. You do monthly "ask me anythings" on**

9 **Reddit?**

10 A Yes.

11 **Q Okay. You do that for the same reasons we**

12 **just described?**

13 A Yes.

14 **Q Okay. I saw a monthly "ask me anything"**

15 **you posted. I think it was posted May of 2018.**

16 A Okay.

17 **Q Again, I'm just going to characterize what**

18 **I saw and just ask you if you recall doing that.**

19 A Okay.

20 **Q I think there was a question posed to you**

21 **about the SEC and the Kin project. And it appeared**

22 **that you stated that Kin could pull out of the U.S. or**

23 **out of certain jurisdictions.**

24 **Does any of that ring a bell for you?**

25 A It rings a bell.

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1 **Q Okay. How would Kin -- how would Kin do**

2 **that?**

3 A I think the context of this -- these AMAs,

4 maybe it's helpful to understand, is it's my -- what I

5 want to do is it's my opportunity to be transparent

6 with the Kin community and to answer -- the original

7 intent was to answer questions about the Kin vision.

8 So, you know, so that people could really understand

9 what I was thinking and why when I conceived of this.

10 The format I use is people post questions,

11 and I go to my way not to see the questions ahead of

12 time, so I'm answering them on the spot on video, where

13 I'm seeing them for the first time. In terms of this

14 question, you asked, well, how could Kin pull out of

15 the U.S. or how could Kik, Inc., pull out of the U.S.?

16 My answer to that would be based on --

17 would reveal conversations with counsel.

18 **Q Does Kik have plans to pull out of the**

19 **U.S.?**

20 A Today, no.

21 **Q I'm sorry. Does Kin have plans to pull out**

22 **of the U.S.? I misspoke.**

23 A Kin is a cryptocurrency that exists on the

24 blockchain.

25 **Q Okay.**

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1 A And so any country that has the internet

2 will have Kin.

3 **Q Okay. So to date, there are no plans?**

4 A To pull out what out of the U.S.?

5 **Q To pull Kin and the Kin project out of the**

6 **U.S.**

7 A If you're referring to Kin, the

8 cryptocurrency, it's impossible to pull Kin, the

9 cryptocurrency, out of any country, unless you shut

10 down the internet.

11 **Q Okay.**

12 **How much of your time since the**

13 **public sale has been spent on the Kik messenger app**

14 **side of the business versus the Kin project side of the**

15 **business?**

16 A Roughly 50/50.

17 **Q Okay. Since the public sale, aside from**

18 **the distributions that we just walked through, that**

19 **Brent just walked through --**

20 A Uh-huh.

21 **Q -- has Kik sold any of its holdings of Kin?**

22 A Not to my knowledge.

23 **Q Okay. Is that -- and it receives more each**

24 **quarter. Do I have that right?**

25 A It vests more each quarter. But I think,

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1 technically, it's already received them.

2 **Q I apologize. Vests more each quarter.**

3 A Yep.

4 **Q So it could sell more each quarter as the**
5 **vesting schedule continues?**

6 A Correct.

7 **Q Does it have plans currently to sell more**
8 **Kin?**

9 A At some point, Kik will, like everybody in
10 the ecosystem, need to sell Kin to get dollars to fund
11 its own operations.

12 **Q Sure.**

13 A But when exactly we do that has not yet
14 been decided.

15 **Q Okay.**

16 **And in terms of the distributions --**
17 **Brent just walked you through some distributions that's**
18 **happened over time, right?**

19 A Uh-huh.

20 **Q Does Kik Interactive have plans to**
21 **distribute more Kin to developers or other ecosystem**
22 **participants in the future?**

23 A There are potential strategies in the
24 future where Kik might do that, but there's also
25 options where Kik does not do that.

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1 **Q And how about on the Foundation side?**
2 **Does the Foundation have plans?**

3 A Yes, it does.

4 **Q And do you expect in the future the**
5 **Foundation will continue to distribute Kin to members**
6 **of the -- people participating in the ecosystem?**

7 A That's the whole point.

8 **Q Okay.**

9 A Yes.

10 MR. MITCHELL: Practical question. The
11 Foundation has a wallet that holds the Kin tokens?

12 THE WITNESS: Correct.

13 MR. MITCHELL: Who controls that?

14 THE WITNESS: I believe -- if the question
15 is who technically would make the transfers if the Kin
16 Foundation board members would vote, I believe it's Kik
17 employees.

18 MR. MITCHELL: Did you ever consider sort
19 of not having a foundation, just -- just having Kik fill the
20 roles that you have that are currently being run by Kik
21 and the Foundation?

22 THE WITNESS: Not to my recollection.

23 MR. MITCHELL: I guess -- why not? I just
24 don't -- I'm still trying to understand why the -- why
25 it had the Foundation.

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1 THE WITNESS: Because if I were a developer
2 of another app and somebody came to me and said
3 integrate our cryptocurrency, but at the end of the
4 day, we control everything, so really you're not
5 building for an open economy, you're building for a
6 company's platform, that personally, I would not build
7 for that.

8 And so it's important to me for myself, and
9 therefore, I felt like it was the right thing to do for
10 everybody else, for there to be an independent body
11 responsible for the allocation of that 6 trillion Kin.

12 MR. MITCHELL: That's one of the things
13 that makes you -- makes this project different than
14 Twitter, which can control its own data and its API and
15 things like that?

16 THE WITNESS: There are many things that
17 make it different --

18 MR. MITCHELL: Sure.

19 THE WITNESS: -- but this is one of the
20 things that makes it different, yes.

21 MR. MITCHELL: Okay. And you thought it
22 would make it attractive to people, to get them to join
23 and participate?

24 THE WITNESS: If somebody asked me to join
25 a platform that didn't have an independent foundation

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1 or didn't have a plan to have an independent foundation
2 over time, I would not join. So how could I ask anybody
3 else to join such a platform?

4 MR. MITCHELL: Okay.

5 BY MR. LEASURE:

6 **Q So we've covered a lot of different topics**
7 **about Kik, the Kin project, and you, over the past two**
8 **days of testimony, right?**

9 A Uh-huh.

10 **Q So as we're winding down, I just want to**
11 **offer you an opportunity. As the CEO of Kik and as**
12 **the -- I think the term is founder of Kin, is there**
13 **anything else you think we need to know on our side as**
14 **we continue our investigation about Kin?**

15 MR. LYNCH: I'm wondering, you know, if
16 you're getting to the end. This is -- this seems like
17 the kind of last question you ask, you know, do you
18 want clarify anything. And usually, we'd just like to
19 talk to him.

20 If you want him to answer, he can. But
21 it seems like that's the question you're asking.

22 MR. LEASURE: It is, but it's -- I just
23 want to --

24 (Simultaneous speakers.)

25 THE WITNESS: That's usually what reporters

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ask at the end of the interview. But I'm not sure how this is different to that.

MR. LEASURE: No. Let me say this. Let me give him a chance to answer, then we'll go off the record and let you talk to your client. Is that fair?

THE WITNESS: It's hard for me to know how to answer that question without knowing how these things work.

And I have never done one of these before, so I think I should not answer that question.

MR. LEASURE: Fair enough.

We are going off the record.

THE VIDEOGRAPHER: Going off the record.

The time is 4:48 p.m.

(A brief recess was taken.)

THE VIDEOGRAPHER: We are back on the record. The time is now 4:51 p.m.

BY MR. LEASURE:

Q Back on the record after a brief break during which, Mr. Livingston, did you have any substantive conversations about this investigation with SEC staff?

A I did not.

Q Okay. We have no further questions for you

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at this time. Should we have additional questions for you, we'll reach out to your attorneys.

Is there anything you wish to add or clarify to the testimony you've given over the past two days?

A There is not.

MR. LEASURE: Counsel, do you have any additional clarifying questions you wish to ask Mr. Livingston?

MR. GIBBS: We do not.

MR. LEASURE: All right. Thank you for your time. We're off the record.

THE WITNESS: Thank you.

THE VIDEOGRAPHER: This is Disc 4 of 4. Going off the record. The time is 4:52 p.m.

(Whereupon, at 4:52 p.m., the examination was concluded.)

* * * * *

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PROOFREADER'S CERTIFICATE

In the Matter of: KIK INTERACTIVE

Witness: Edward "Ted" Livingston

File Number: HO-12869-A

Date: Thursday, November 8, 2018

Location: Washington, D.C.

This is to certify that I, Christine Boyce, (the undersigned) do hereby certify that the foregoing transcript is a complete, true and accurate transcription of all matters contained on the recorded proceedings of the investigative testimony.

(Proofreader's Name) (Date)

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REPORTER'S CERTIFICATE

I, Melinda Johnson, CSR, reporter, hereby certify that the foregoing transcript of 299 pages is a complete, true and accurate transcript of the testimony indicated, held on Thursday, November 8, 2018, at Washington, D.C. in the matter of: Kik Interactive.

I further certify that this proceeding was recorded by me, and that the foregoing transcript has been prepared under my direction.

Date: _____

Official Reporter: _____

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